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The Nebraska Transcript

UNIVERSITY OF NEBRASKA COLLEGE OF LAW SPRING/SUMMER 2006 Vol. 39 No. 2

Law-Psychology Program Stands Out



University of Nebraska-Lincoln

Dean's Message



Dear Alumni and Friends,

This edition of THE NEBRASKA TRANSCRIPT features one of our best and most widely known programs: Law and Psychology. Without doubt, this is the best program of its type in the nation. I had occasion to go to the 2005 annual convention of Division 41 of the American Psychological Association, which is incorrectly named the American Psychology-Law Society (getting the key words in reverse order). Our faculty, students and alumni were dominant in presenting papers, leading panels and, need I say it, enjoying the atmosphere in La Jolla, Calif.

The program is successful for many reasons, including strong leadership by the current director, Prof. Rich Wiener, and his predecessors; significant investments by the University over a long period of time; and a culture of cooperation between the Law College and the College of Arts & Sciences, both of which contribute faculty and resources. We have a number of other programs that are similar to Law and Psychology, but younger. All have strong leadership and great potential. With time, support and hard work, we have hope and confidence that they will be able to match the influence and reputation of our Law-Psychology Program.

These other programs include:

- **Space Law.** This is an exciting and very new initiative which has garnered great notice locally. Lead by Prof. Matt Schaefer, the program will draw on relationships with Stratcom, on the experiences of our alumni in telecommunications and other related fields, and on Matt's knowledge and connections in government and international law.
- **Institute for Applied Ethics.** Prof. Susan Poser is the new director of the institute. She has put together a strong advisory board of faculty from across the University and is carving out a new and exciting direction, focusing on teaching and research about ethics across disciplines.
- **Water Law & Policy.** This is a major research initiative at the University bringing together a wide variety of disciplines from science, the social sciences and law. Prof. Sandi Zellmer is one of the three leaders of the University-wide effort. Professors Susan Franck and Anthony Schutz also participate.
- **Pension and Health Care Law & Policy.** Prof. Colleen Medill leads this program, which involves two of the most salient and financially-significant issues of our time. Professor Medill is developing relationships with others at the University and elsewhere who have relevant expertise in disciplines such as psychology, economics and accounting.

All these programs, including Law and Psychology, share common themes. They all consider issues that are very important to our State, the Nation and the World. They all are led by people with great vitality, energy and intelligence. They all require collaboration with others who have expertise that complements our legal expertise. And, finally, they all require significant investments of financial and human capital.

The success and vitality of these programs are some of the many reasons why these are exciting times to be at the College of Law. We are doing all we can to make important contributions and, as always, we appreciate your good counsel and advice.

Steven L. Willborn
Dean and Richard C. & Catherine Stuart Schmoker Professor of Law

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World's First Law-Psych Program, With Its Integrative Approach, Continues to Rank Among Best

The University of Nebraska's Law-Psychology Program, which opened its doors in 1974, is the world's oldest ongoing integrated program in psycholegal studies. And it remains one of the world's foremost programs in good measure because of the close working relationship forged between the College of Law and the University's Psychology Department.

Director Richard Wiener describes the program as "a highly interdisciplinary approach to examining issues that are at the intersection of both law and psychology." While the field of psychology and law is "exploding everywhere," Wiener said what is really unique about Nebraska's

backgrounds, two different colleges and two different administrative units of the University to work together. You can imagine the scheduling problems with students taking classes in different disciplines and on two different campuses." (The Law College is located on the University's East Campus while the Psychology Department is housed on City Campus.) The reason it has happened here, he said, is that both the Law College and the College of Arts and Sciences recognize the value of the program and are committed to making it work.

Vital to making it work are the program's interdisciplinary courses, according to Prof. Robert

Schopp, the program's faculty member whose main appointment is in the Law College. The program's two core courses, which almost every student in the program takes, are Law and Behavioral Science and Mental Health Law. Law and Behavioral Science looks at the use of psychological theory and psychological methodology in a number of different areas of

dispute resolution, both criminal and civil, and evaluates the contributions that the behavioral sciences make in formulating public policy.

Mental Health Law focuses on the basic questions: "How does the law treat people differently because we call them mentally ill? What does that mean? Why does that justify treating them differently? What is the proper role of psychological experts in the process?" explained Schopp.

In addition, students pursue their special interests by taking a number of courses under the general title: Topics in Law and Psychology, which provide in-depth analysis of specific psycholegal issues. Topics courses offered in recent years include Amicus Brief Writing, Privacy, Legal Decision Making, Eyewitness Behavior, Domestic Violence, Jury Decision Making, and Legal Policy and Child Development.

One of the strengths of the law-psychology courses is that they are taken not only by students pursuing joint degrees in law and psychology, but also by law students and psychology graduate students who are not in the program. The students bring to the classes knowledge in their



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program and what is its real strength is that it offers an integrative curriculum and an integrative experience. "Our goal is to get the students and the faculty to think about both the law side and the social science side." The program does this so well, he continued, because it is one of the few law-psychology programs that is affiliated with a law school and one of the few that offers its students formal training in the law. Most of the other law-psychology programs are psychology programs with a legal emphasis without the students receiving any formal legal training.

What Wiener saw at the most recent American Psychology and Law Society conference reinforced his belief that "the kind of work that our students and our faculty are doing is different in that it integrates legally relevant questions and psychological theories and analysis in a way that makes our work richer" than much of the work in the field.

Nebraska's program is hard to duplicate, added Associate Director Brian Bornstein, because the synergy the program has achieved is hard to accomplish. "It's so difficult to get administrators from two different academic

particular discipline and learn much from one another as well as from the faculty.

The Law-Psychology Program offers three types of joint degrees. About 40 percent of the program's students are in the J.D./Ph.D. track in which students receive both a law degree and a doctorate in psychology focused in a sub-specialty such as social psychology, cognitive psychology or developmental psychology. Students in the J.D./Ph. D. track spend their first year taking the traditional first-year law curriculum. In their subsequent years, they take both law and psychology courses as well as the specialized Law-Psychology courses. The strong integration in law and psychology that the graduates of this program receive enables them to get jobs as academics and trial consultants in which such integration is important. In fact, many of the law-psychology programs that have come into existence in the years since Nebraska's program was founded are staffed by graduates of the Nebraska program.

Approximately 50 percent of the program's students are on the Ph.D./M.L.S. track. These students get a doctorate in psychology and, after taking 33 hours of law courses, a Masters of Legal Studies degree from the Graduate College. Students in this track are not interested in practicing law but are seeking a better understanding of the law as it affects their area of psychological investigation. Graduates of the program often find careers in academic or clinical psychology in areas that intersect with the law.

The program's third degree track is the J.D./M.A. track in which about ten percent of the law-psych students are enrolled. This track is for students who want to be lawyers but also desire to obtain a strong background in psychology or social science methods. Most of the graduates on the J.D./M.A. track go on to practice law in fields in which psychology can be particularly helpful, such as juvenile law.

Another way, and according to Schopp, "in some ways the most important way," the program integrates law and psychology is through the research the students conduct for their Masters theses and Ph.D. dissertations. Students are required to have both law and psychology faculty members on their masters and dissertation committees to assure that there is integration between the legal questions that are

being asked and the psychology that is being applied to come up with the answers.

Another important aspect of the program are twice-a-month "brown bag" sessions in which students talk about their research topics and about pertinent law and psychology issues. The program also brings in speakers on a regular basis and hosts an annual conference funded by the University's Program of Excellence. This year's conference on Civil Juries and Civil Justice is described in an accompanying article in this issue of THE NEBRASKA TRANSCRIPT. The 2007 conference will focus on mental health law.

Obviously the College of Law benefits from being

associated with one of the nation's leading Law and Psychology programs. But there are a number of other ways in which it benefits. As an accompanying article points out, it attracts high quality and highly motivated students from throughout the nation and around the world who want to participate in the program. The College benefits from the course offerings the program adds to the curriculum. The program exposes the College's students to interdisciplinary studies at a time when the study of law is becoming increasingly interdisciplinary and increasingly reliant on empirical research, and it



Law-Psychology students Sarah Thimsen and Tim Robicheaux and Psychology Professor Jennifer Hunt at a Law-Psychology "brown bag".

affords the law students the opportunity to interact with people who are primarily psychologists.

In Bornstein's experience, "one of the things that I think is a common problem in the law is that when lawyers interact with other professions they don't even realize they are speaking different languages." By taking law and psychology courses, future lawyers "find out, for example, that when you ask a clinician the technical definition of mental disease, the answer is that there is no definition. Mental disease is strictly a legal term." Added Wiener, "In the work I've done consulting with attorneys and in being an expert witness, one of the frustrations I've encountered is trying to explain research methodology and basic statistics in a way that lawyers understand. The students who are exposed to our courses come away with a greater understanding of empirical research and what kinds of arguments you can legitimately make based on that research." Schopp has noticed another benefit: "Years of experience with the program have made the faculty more open to cross disciplinary approaches and people doing things in ways that differ from the standard law school model." ■

Law-Psychology Program Attracts Students Worldwide

BY JASON A. CANTONE

Corn and football. To many people, those two words epitomize the University of Nebraska-Lincoln. With arguably the best football fans in the nation (and some wearing corncob caps to home games), it is true that Husker football is an icon for the University. However, the University is also a strong academic community that draws students from around the world. One area that draws students to the University is the Law-Psychology Program.

In the fall of 2005, 136 first year students enrolled in the College of Law. Of these students, 80 percent are Nebraska residents. On the other hand, the joint degree Law-Psychology program currently includes students from across the country and two from outside the United States.

Jessica Snowden, a second year J.D./Ph.D. student from North Carolina, says she "didn't really know what

research, teaching and academic presentations all vying for attention, but, just as with any other student, a good balance between work and fun is important for success.

"It's an inexpensive place to live, which means that even a graduate student can go out once in awhile," says



Cantone

Twila Wingrove, a fifth year J.D./Ph.D. student from West Virginia.

Tim Robicheaux, a fifth year Ph.D./M.L.S. student from Louisiana, praises the program as being "very productive but also laid back, which is why I really like it. It demonstrates that you

can be productive without being a hermit."

While a high level of productivity is expected of all students, University professors also provide a close mentor-colleague relationship rare to many universities. This encourages not only a high level of scholarship, but also a real commitment to research and personal accomplishments.

Although not all law students will graduate with a Law-Psychology course on their transcripts, everyone benefits from the program. The presence of the Law-Psychology Program adds considerably to the academic culture at the Law College.

"After all, psychology is the study of human behavior and the legal system will be strongly impacted by psychological findings," Snowden says.

Unlike the common conception one might get from movies and television, members of the Law-Psychology program do not live a real life version of *The Silence of the Lambs*, chasing down serial killers with fava beans and chianti. Instead, students use their legal knowledge to shape public policy decisions inside and outside of the courtroom context and make psychological principles applicable to



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to expect" when moving to Nebraska in the fall of 2005. Snowden lived her "entire life on the East coast within 15 minutes of water." While she still misses the ocean, Snowden has adjusted well to the Midwest environment.

Students such as Cindy Laub, a third year Ph.D./M.L.S. student from Colorado, quickly found Nebraska and its "Good Life," as the slogan goes, to be incredibly hospitable. Laub moved here with her two children and was concerned about how they would respond to the transition.

"We were treated as if we had always lived here by everyone," Laub says. "It was a huge relief that the boys were treated so kindly by their peers."

Kiernan McGorty, a sixth year J.D./Ph.D. student from Florida, who received her J.D. degree in 2006, also says Nebraska beat her expectations and continues to impress her, five years after first arriving.

"I understand the appeal of living in Lincoln," McGorty says. "Lincoln is a great size city. You can get anywhere in 15 minutes, but there are still plenty of things to do."

The life of a joint degree student might sometimes be more stressful than a traditional law student's, with classes,

lawyers and lawmakers alike.

Beyond bringing a new perspective to Nebraska, students in the Law-Psychology program also bring a Nebraska perspective to the nation. In March 2006, more than 20 students headed to Florida to present research at the American Psychology and Law Society Conference.

Both joint degree students and law and clinical psychology students (who do not traditionally obtain a law degree) presented research ranging from policy discussions of federal bankruptcy law and drug court usage to research on sex offenders and treatment options for juvenile delinquents. Conferences also allow students to strengthen their ability to communicate their research effectively.

Megan Beringer, a second year Ph.D./M.L.S. student from Wisconsin, finds conferences “a good public speaking experience in a supportive environment.” Beringer presented research this year on how sexual harassment standards, such as the reasonable person or the reasonable woman, and self-referencing can affect judgments of sexual harassment.



Stacie Nichols, Amy Humke, Shannon Bader, Twila Wingrove, Jason Cantone, Erin Zwart and Jon Fischer at the 2005 American Psychology and Law Society Conference in La Jolla, Calif.

Students are already planning for the 2007 international conference, which will be held in Australia. Here, students will have the opportunity to represent the University in the international arena.

The Law-Psychology Program is already internationally recognized. Students such as Yimoon Choi, a Ph.D. student from South Korea, joined the program to learn about the American jury system. In South Korea,

efforts are currently under way to introduce a jury system by 2007. While Choi intends to bring back information to better shape the emerging Korean model, Choi also provides valuable information about Korean culture and experiences, which can shape research on how Asians view the American justice system. It is this international academic give and take that allows the Law-Psychology Program to maintain its prominence in not only national research circles, but also around the world.

The Law-Psychology Program firmly believes strong academic achievement can begin before graduate school. The program initiated the Research Experience for Undergraduates (REU) last year, partially funded by the National Science Foundation and by the University's

College of Arts & Sciences and the Office of Research. Through REU, current undergraduates come from all over the nation to gain psycholegal research experience and learn the benefits of joint knowledge in both psychology and law.

All in all, Snowden sums it up best when she says, “So many law schools have a very limited national draw. I think the law school's affiliation with the psychology department is a strong benefit for both.” ■

Jason A. Cantone is a third year J.D./Ph.D. student from Illinois.



The stars on this map show that current Law-Psychology students come from across the country and around the world.

Trial Consultant Uses His Training To Help Lawyers Be Successful

Graduates of the University's Law-Psychology Program pursue a number of careers including academic research, teaching and the practice of law or psychology. Another career choice is that pursued by Daniel Wolfe, '89 – trial consulting. Wolfe is senior trial consultant and director of trial consulting at TrialGraphix and is the immediate past president of the American Society of Trial Consultants (ASTC).

Trial consultants, Wolfe explained, do a variety of tasks for their clients. Consultants design and implement research strategies to obtain the information their clients want. For instance, they use focus groups as an exploratory tool to present information and get feedback on how potential jurors might receive it, or they use condensed mock trials or full-scale trial simulations to ascertain the efficacy of the theories and strategies they have developed.

Consultants work with trial lawyers to assist them to develop appropriate strategies to present their case in

and facts in coming to their conclusions. More than ever, with Generation X and Generation Y making up 40 percent of current juries, jurors are visual learners with relatively short attention spans who are used to getting information in short bursts via television, computers or Game Boys. The challenge for jury consultants is to devise strategies to help these jurors understand and retain the information that their side is presenting.

Wolfe has worked on litigation pertaining to asbestos, breast implants, Bentlate, Halcion, Prozac, Phen Fen and tobacco. He has worked on numerous high profile cases including those involving Rodney King, O.J. Simpson, Martha Stewart, John Dupont (who was found guilty but mentally ill in the murder of Olympic wrestler David Schultz) and Rolando Cruz. (Cruz had been convicted of the rape and murder of a ten-year-old girl based on what was later determined to be perjured police testimony. A special grand jury indicted four sheriff's deputies and three former prosecutors for their roles in the Cruz case.)

Increasingly, in this age of the "vanishing trial," Wolfe and other trial consultants help their clients prepare for bench trials and alternative dispute resolution mechanisms such as arbitration and mediation. To many lawyers the mediation process, which assists the parties to negotiate to a joint solution, sounds easy, Wolfe said. "They say, 'Oh yeah, no big deal; I know how to play poker,' but they don't really understand the process." Trial consultants can help attorneys and parties practice their negotiation skills by setting up a mock mediation. "We approach it from a holistic perspective," Wolfe explained. "You need to know your adversary, know your mediator and know the process. We give them the opportunity to practice it so that when they do the real mediation, it's not something that's foreign to them."

Prior to the mediation of a wrongful death case in which the sides were wide apart in their damage estimates, opposing counsel agreed to conduct a mock trial. Three panels of jurors were used and Wolfe and his team watched all three panels deliberate. After analyzing the data, Wolfe was able to give the mediator his views on an appropriate settlement range based on what the potential jury verdict would be. The parties settled within this range. "Both sides went away unhappy, so you know that the number was the right number," Wolfe said. "It was something they both



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ways that emphasize the case's strengths and play down the weaknesses. They help prepare witnesses for depositions or trials by working to improve the effectiveness of their communication.

Trial consultants are probably best known for their work with juries. They help lawyers select juries by assisting in the drafting of voir dire questions and creating juror profiles, as well as developing jury selection strategies. They monitor trials to gauge how the jury is reacting and sometimes utilize a shadow jury composed of members as similar as possible to the real jury panel to find out how well trial strategies are working. After the trial, they might interview the actual jurors to better understand why they decided the issues the way they did.

Wolfe's psychology training is especially helpful in trying to ascertain "what makes jurors tick." Jurors, Wolfe said, are thrown into a novel and ritualized environment that uses unfamiliar language and are asked to quickly make profound decisions based on conflicting versions of the facts. As a result, jurors tend to filter information selectively using their own experiences and beliefs as a framework and consider only a small number of issues

could live with, but they were unhappy with it.”

While Wolfe chose trial consulting over a teaching career, much of what he does involves teaching. “What I find most valuable about my job,” Wolfe said, “is that you can really help somebody be successful in what they do.” He told a story about a well respected senior partner in a large Chicago law firm who was pitted in a mock trial against an aggressive associate on the cusp of partnership. The senior partner “was not on the top of his game and just got crucified by the mock jurors. They hated him with a passion. It was a big blow to him, but he had the gumption to know that he had something to learn.” The lawyer called Wolfe and asked him to help him. “He called on me, Joe Schmo trial consultant, because he knew I had something to offer him of value. We worked on his presentation style and things he could improve on to make him better. It was a great experience.”

Wolfe also teaches by conducting skills workshops in areas like witness preparation, jury selection, trial presentation skills and client counseling. “For instance, we talk about managing client expectations by discussing with the clients outcome variables so that they don’t go into trial thinking they are going to get the world.”

Work of this sort was far from Wolfe’s mind when he started out as an undergraduate psychology major at Colorado State University. His senior project involved working on a rape decision-making study. “This was my first exposure to law and psychology, and I was just thoroughly fascinated by it,” Wolfe recalled. His advisor suggested he think about applying to a law and psychology program, and Nebraska’s program stood out. He did not know much about Nebraska, but once he came he was



formed the groundwork for his career. As a law student, Wolfe was very involved in student activities, participating in the Client Counseling Competition, the Community Legal Education Project and Big Brothers/Big Sisters. “I’m happy those activities are still going on at the Law College,” he said, “because to me they were such an important aspect of becoming part of the culture of Nebraska.”

As a Ph.D./J.D. student, Wolfe worked closely with then Law-Psychology Program Director Gary Melton on the guilty but mentally ill verdict option, which became the subject of his dissertation. That exposure led him to trial consulting and the city of Chicago where he has lived since his graduation.

As director of trial consulting for TrialGraphix, Wolfe is the head of the firm’s national trial consulting practice. In 2004-2005, he served as president of ASTC, an organization of trial consultants, researchers and educators in academic settings who share an interest in understanding the dynamics of trial procedure, the decision-making processes of judges and juries, and ADR methods. He currently is vice president of the ASTC Foundation, which funds grants and projects in the area.

A recent study in which he participated was commissioned by the Seventh Circuit Bar Association to consider and test certain concepts recently adopted by the ABA as part of the American Jury Project. Seven concepts were tried out and assessed through questionnaires submitted to jurors, lawyers and judges. They included using substantive preliminary jury instructions before evidence is presented, using written juror selection questions, utilizing time limits, and allowing jurors to ask questions during the trial.

“I love my work,” Wolfe concluded, “I get to do all the things that I could do if I were a psychologist, or a lawyer, or a academician. I get to be in the courtroom, to write, to teach and to do research.” ■

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“thoroughly impressed with the quality of the program and caliber of the people, who had a genuine concern for teaching and connecting with people.”

Law school “was a mind altering, revolutionary experience for me. I tell people that the first year of law school is the greatest thing you can ever do, and that I’d never do it again,” he remarked. “I still remember the horrible experience of getting lost in the library during my first research project. I couldn’t find the statutes; I couldn’t find the cases.” His first exposure to the courtroom was in Trial Advocacy and the Civil Clinic, experiences that

Juries & Civil Justice

Law-Psychology's Program of Excellence Conference Seeks To Improve Understanding of Jury Process

BY JASON A. CANTONE

Large damage awards often grab prominent headlines in newspapers nationwide. Whether describing how a jury awarded millions of dollars to a woman who spilled McDonald's coffee or explaining how a TV viewer plans to sue NBC because a scene on *Fear Factor* made him gag, negative perceptions of civil juries and our litigious culture pervade reports of the American legal system.

Prominent scholars from around the nation converged in Lincoln from May 15-18, 2006, as part of the University's Law and Psychology Program's second annual Program of Excellence conference to address the convergence of law, psychology and public policy on the topic "Civil Juries and Civil Justice." The University of Nebraska Program of Excellence Program awarded a grant to Dr. Richard Wiener, Dr. Brian Bornstein, Prof. Robert Schopp and Dean Steve Willborn to sponsor the conferences and publish the results. This year's conference, organized by Bornstein (with considerable help from Willborn, Wiener and Schopp and graduate student coordinator Evelyn Maeder) presented eight papers that sought to better understand civil juries through empirical investigation.

Bornstein introduced the potential "tempest in a teapot" regarding nationwide concerns about the effectiveness of juries and the excessiveness of damage awards. Bornstein noted that the negative view many legislators have of juries is one of the causes of the tort reform movement. On the other side, Bornstein said that most social science researchers hold a positive view of juries.

Telling the Story

The best way to ensure that a juror fully comprehends the case is to provide the information in an engaging narrative, said Reid Hastie, professor at University of Chicago. Hastie formulated the story model, which posits that jurors use evidence and their mental model of the situation to create a narrative that helps them come up with a judgment.

Hastie suggested that attorneys should create a summary of events for the jurors involving an engaging cast of characters, sequenced according to the story, and appropriate causal links between these characters and events. At each step of the trial, Hastie recommended bringing attention to the story involved. From the opening statement, when attorneys should present the story and emphasize goals and motives, to the closing statement, when attorneys should attack weak elements in opposing counsel's story, attorneys can shape a juror's mental model of the case.



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Hastie added that attorneys can use trial consultants and shadow juries to make sure that jurors comprehend the relevant story and time lines.

The Power of 'I'm Sorry!'

While some attorneys fear that apologizing will increase chances that the defendant will be found liable, Jennifer Robbennolt, '96, professor at the University of Illinois College of Law and J.D./Ph.D. graduate of the Law-Psychology Program, has found that apologizing also has substantial legal benefits.

Current research investigates the difference between expressions of sympathy ("I'm so sorry you're hurt") and declarations of fault ("I'm sorry I hit you"). States have enacted statutes that make apologies and expressions of sympathy inadmissible as evidence, while declarations of fault are admissible.

Apologizers are seen as having less intent to commit the wrongdoing. In addition, apologizing can increase assessments of the defendant's character and the likelihood to forgive. Research had found that apologies also provide positive physiological affects, such as decreased heart rate,

for both the apologizer and victim. However, apologies should not be taken as beneficial across the board. In ambiguous cases, defendants who apologize might face increased liability as an apology can be seen as a declaration of guilt.

Are psychology studies valid?

Neil J. Vidmar, professor of law and professor of psychology at Duke University, understands that many attorneys might question whether mock juror studies are truly representative of how real juries act.

Real trials have a degree of chaos often lacking in mock jury trial structures. Vidmar provided the example of when a witness complains of back aches, but wears high heels to the trial, the jury might doubt the severity of the pain. In addition, college students do not have the real world experiences of many actual jurors, Vidmar stated. For example, college students serving as mock jurors in a medical malpractice case are less likely to have experienced physical symptoms described in the case.

There is also a difference between 'juror' research and 'jury' research. Juror research, much more common due to its lower cost in time and money, fails to investigate events such as strategic bargaining between jurors.

Beyond mock juror research, Vidmar has found that archival data studies also pose problems, such as misclassification and missing cases from archival data sets. Vidmar suggested social scientists seek valid evidence through different methods and data sources, including observation. Bornstein, however, cautioned that observed cases might not be representative of all cases as a whole. Attorneys should be aware of methodological issues before using studies or expert witnesses.

Does litigation heal or hurt?

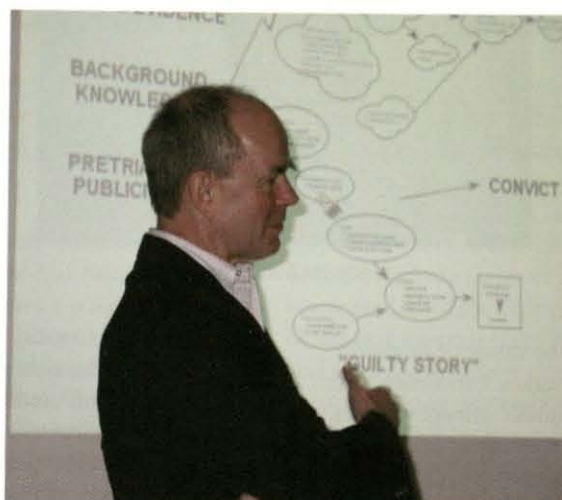
While some say tort litigation can empower people to have their disputes heard, the bitter, adversarial nature could also bring psychological harm to both plaintiffs and defendants, said Edie Greene, psychology professor at the University of Colorado at Colorado Springs.

Greene said that she believes therapeutic jurisprudence (seeking to understand the health effects of legal proceedings) and restorative justice can move the

American legal system beyond its adversarial mode and address less tangible needs that claimants bring with them to the legal system. These systems focus on collaboration.

So, why is litigation often counter-therapeutic? Greene suggested (1) there is a long delay before resolution, (2) the injured and injurer never come together, reducing perceived decision control and (3) it is not only about money, but also about non-tangible losses, which can be resolved partly through non-legal remedies such as apologies.

Greene has found that apologies can be an important part of restorative justice, when victims, offenders and the community come together to resolve situations of harm. All in all, Greene suggested that implementing restorative justice measures can make litigation more therapeutic for all parties involved.



Reid Hastie

Damage Awards

Although compensatory damages aim to restore a person back to where the person was before injury and punitive damages seek to punish and deter, Catherine Sharkey, professor at Columbia University Law

School, found a cross-over effect in awarding damages. Sharkey pointed to research that indicates that when jurors are restricted from granting punitive damages, they will inflate compensatory damages. In addition, the Supreme Court in *State Farm v. Campbell* held that "compensatory damages...already contain a punitive element."

Sharkey found that punitive damage caps significantly increased compensatory awards in jury trials, but found no difference in bench trials. The archival data set Sharkey used also showed that, overall, the median compensatory damage award decreased between 1991 and 2001.

Valerie P. Hans, professor at Cornell Law School, also presented research, co-authored with Theodore Eisenberg, regarding the relation between punitive and compensatory damages. Hans reminded those in attendance of *BMW v. Gore*, in which jurors awarded \$4 million in punitive damages because the defendant sold a repainted car without informing the consumer. The U.S. Supreme Court concluded that proportionality between compensatory and punitive damages is an important factor, though not the only one.

Hans found that less than five percent of jury trials include punitive damages. Hans then combined three

archival data sets and found that, generally, jurors award compensatory and punitive damages proportionally.

Application: Medical Error

Stephan Landsman, professor at DePaul University College of Law, said he believes in an integrative approach between legal theorists and psychologists.

Landsman noted the 270 deaths every day due to medical errors in American hospitals. In one study, 45.8 percent of patients at a hospital faced at least one error. However, only 1.2 percent brought a claim.

Medical errors are not often reported because disclosure is not favored in a medical culture of perfection, hospitals lack an effective reporting system and the threat of litigation leads doctors to fear admitting mistakes. Landsman said an irrational fear of juries and plaintiffs' attorneys (who would be attracted to error reports "as surely as honey attracts bears") strangles the prospects of medical reform.

Medical associations now focus on requiring caps for medical damages. Instead of showing concern for patients and improving hospitals, medical professionals seek political solutions.



Jennifer Robbennolt

In addition, Hans presented research on citizen perceptions of whiplash injuries. Automobile cases are the largest single component of state jury trial caseload. Treatment of automobile accident injuries faced recent changes, with limited compensation for soft tissue claims. Injuries regarding whiplash could face different theoretical questions than severe medical malpractice cases, as trivial injuries could be taken less seriously.

Hans used focus groups and a national telephone survey to better understand juror perspectives of whiplash injuries. Many disbelieved the whiplash injuries, believing the neck brace will come off as soon as the check is cashed. In addition, Hans found that terminology made a significant difference, as jurors

view connective tissue damage more seriously than whiplash or a muscle sprain, although all three terms refer to the same condition. Plaintiff credibility is central to cases and reforms to bolster credibility will impact perceived injury severity.

Throughout the conference, professors Craig Lawson, Susan Poser, Richard Wiener and Alan Tomkins responded to the papers and presented new ideas to stimulate brainstorming sessions that took place between the speakers, students and faculty on the last two days of the conference.

Through these discussions, those in attendance learned that psychologists and legal theorists must work together to improve the litigation process as a whole and remove misconceptions about the civil jury system.

The 2005 Law and Psychology Program of Excellence Conference, "Legal Decision Making in Everyday Life: Controversies in Social Consciousness," brought another set of distinguished speakers to campus to discuss the role of decision making research in controversial areas of law including affirmative action, police profiling, sexual harassment and hate crimes. Wiener organized the conference. Schopp will organize the 2007 conference focusing on mental health policy relating criminal punishment to psychological and philosophical theories of punishment. Springer Publishers will publish edited volumes from all of these conferences. ■



Prof. Bob Schopp (center) speaks with Dean Steve Willborn (left) and Professor Valerie Hans of Cornell University Law School (right) at a cocktail reception held during the Program of Excellence Conference.

Utah Connection

Thanks to Efforts of Prof. Marty Gardner, Many Utah Students Attend Law School in Lincoln

BY W. JESSE WEINS

It is not surprising that the College of Law, Nebraska's state law school, attracts many of its students from the state of Nebraska. What is more surprising is that, among the many students who come to the Law College from throughout the country and the world, a growing number attend undergraduate school in the state of Utah. This is in large part due to the efforts of Law College professor Martin Gardner.

Growing up in Salt Lake City, Utah, Gardner, a member of the Church of Jesus Christ of Latter-Day Saints (LDS), began college as a music major and then a philosophy major. He eventually (and fortunately for the Law College) found law. He received his B.S. and J.D. degrees from the University of Utah. Presently teaching Criminal Law, Criminal Procedure and Juvenile Law, among other classes, Gardner has made Nebraska his home. Likewise, many LDS law students are calling Nebraska home for the duration of law school or longer. A few years ago, there were only a handful of such students each year. Today, there are well over 30, and the numbers keep growing.

Law students from Utah have certainly brought intellectual prowess to the Law College environment. Last year, for example, six of eight Utah students graduated with honors. Some have also been members of the NEBRASKA LAW REVIEW. Many of these students attribute their rise in numbers to Gardner's support.

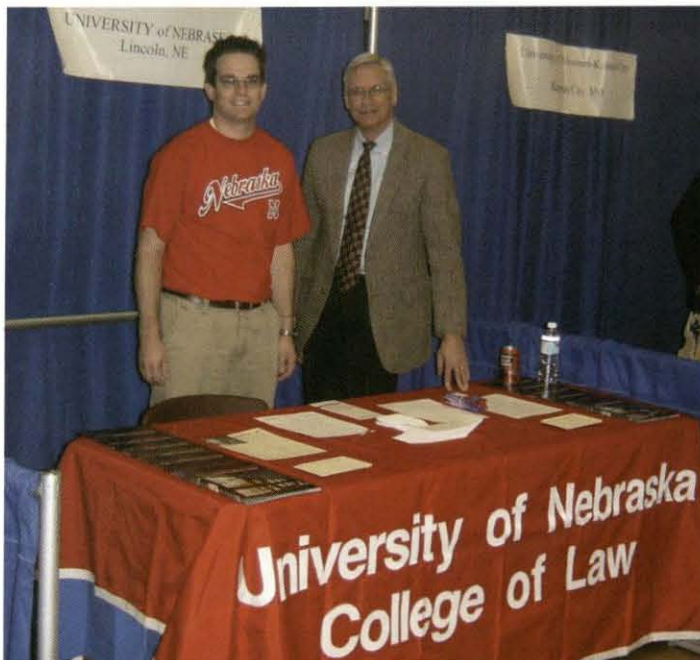
When asked what accounted for this increase, Gardner stated that the two Utah law schools (Brigham Young University and the University of Utah) have aided the process. Because Gardner is a friend of the dean of BYU's law school, the Law College has been the beneficiary of student referrals from BYU, as well as from Utah. In addition, faculty members from these three schools have become visiting professors at the others, which has fostered good relationships among them. Gardner's contacts have helped the Law College recruit students from undergraduate institutions throughout the state of Utah. Many of these students grew up in Utah, while others are from surrounding states.

Students recruited from Utah have found the Law

College to be a good fit for them. Since Nebraska is just a day's drive from where many of these students live, it appeals to them because they can more easily visit family and friends back home. Gardner has helped to create a welcome community in Lincoln, so that students, and especially their spouses, can find a network of acquaintances. This allows students and their spouses to build relationships with those nearby during the difficult time of law school.

The rise in LDS students has also contributed to the diversity of the Law College. "This is especially true regarding the fluency of foreign languages," comments Gardner. Because many LDS students have participated in missions around the globe, they have become fluent in a variety of languages, such as Japanese, Spanish, Portuguese and Russian, and have first-hand knowledge of these diverse cultures.

Gardner denies personal responsibility for the benefits his recruiting efforts have brought to the Law College, but as one Utah student said, "I wouldn't be here if it were not for him." ■



Prof. Marty Gardner and student Jeremy Shorts, '06, staff the Law College's table at a recruitment conference at Brigham Young University.

Constitution Day

University 'Celebrates' the Constitution Even While Calling Into Question Constitutionality of Its Day

BY W. JESSE WEINS

The Law College hosted "Celebrating Constitution Day" on September 16, 2005. A distinguished panel, including Prof. Rick Duncan and Dean Steve Willborn of the College of Law and Prof. John Wunder of the History Department, discussed topics relating to the U.S. Constitution or, in Willborn's case, the celebration of Constitution Day itself. Prof. Michael Combs of the Political Science Department acted as moderator for the event.

"Locke v. Davey and the Broken Promise of Equal Access"

In his talk, Duncan recounted the case of Joshua Davey, an outstanding high school student, who earned one of Washington's Promise Scholarships. These scholarships assist academically gifted students from low to moderate income families with the expenses of attending college. They could be used for any course of study except "theology from a devotional perspective."

When Davey enrolled at Northwest College, a private Christian school, the scholarship was taken away because

of the course of study that he chose – devotional theology. While Davey could have majored in theology from a secular perspective and retained his scholarship, he could not major in the same course of study at Northwest because of its Christian viewpoint.

Davey sued in federal court claiming that the rule that denied him his scholarship was unconstitutional religious and viewpoint discrimination. Eventually, the case came before the U.S. Supreme Court, which decided to hear only the claim under the Free Exercise Clause, but not the Free Speech Clause. The Court held that such an exclusion denying state funding for "vocational religious instruction" does not violate the free exercise rights of students who are pursuing this type of education.

However, Duncan argued, in "brief and largely unreasoned dictum, the Court also rejected Davey's free speech claim because the Promise Program 'is not a forum for speech'" on the basis that the scholarship was merely to help low to moderate income students pay for college,

not to "encourage a diversity of views from private speakers." In other words, Duncan said, "higher education is a product or service, like low-income housing, surplus cheese or health care, not an open and diverse marketplace of ideas."

If such reasoning is sustained, more than supporters of equal treatment for religious education should be concerned. If Rehnquist's dictum in *Davey* applies, the Free Speech Clause would not apply to a scholarship program that excludes gender studies from a feminist perspective because "a scholarship program is merely the delivery of a product or service and is not designed to create a forum or to encourage a diversity of view from private speakers," Duncan said.

The Promise Scholarship Program in *Davey* was designed to encourage



Prof. Michael Combs of the Political Science Department, Professor Rick Duncan of the College of Law, Prof. John Wunder of the History Department and Dean Steve Willborn of the College of Law discussed topics relating to the U.S. Constitution at "Celebrating Constitution Day".

scholarship winners to choose from an infinitely broad array of topics and courses that make up the marketplace of ideas of higher education. Duncan concluded that since the exclusion of devotional theology majors was clearly based on viewpoint, and since the government may not discriminate on the basis of viewpoint, even in funding cases, “if the program is designed to encourage a diversity of views from private speakers or to facilitate free speech, it follows that the Court’s unreasoned dictum in *Davey* is difficult to support and should not be allowed to harden into law.”

“Thinking about the Constitutionality of Constitution Day”

Willborn’s talk clearly drew the most laughs of the day. It cleverly asserted, (in a “sort of tongue-in-cheek” way, “but only sort of”) the ironic unconstitutionality of Constitution Day itself, as well as the silliness of Congress to force such a day on universities.

In December 2004, Congress passed the Consolidated Appropriations Act of 2005, a gigantic bill. Nearly 500 pages into the law’s text, a small provision reads:

Each educational institution that receives Federal funds for a fiscal year shall hold an educational

program on the United States Constitution on September 17 of each year for the students served by the educational institution.

Willborn considered two possible powers that Congress could have used in enacting Constitution Day. The first is the Commerce Clause – Congress was regulating commerce. However, there are limitations on this power. In the historic *Lopez* case, the Supreme Court found that a federal law making it illegal to possess a firearm within a school zone had nothing to do with interstate commerce in the normal sense – commercial transactions moving goods across state lines. Willborn argued that Constitution Day has an even less significant effect on interstate commerce than the firearms law. In the former case, at least there were firearms that might cross state lines.

What about the Spending Power? The law says that if a school does not comply with this federal mandate, it loses all federal funding. However, there are limits to the Spending Power, too.

The leading case in this regard is *South Dakota v. Dole*. Congress decided to cut off federal highway funds to states that permit people under age 21 to drink. The Supreme Court upheld that law (the connection between

Flavel Wright Grant Supports Bill of Rights Program



The College of Law’s Community Legal Education Program (CLEP) has received a \$25,000 endowment from The Flavel A. Wright Trust. The endowment, which is administered through the University of Nebraska Foundation, supports CLEP’s Bill of Rights curriculum. The curriculum will henceforth be known as the Flavel A. Wright Educational Program on the Bill of Rights.

Wright, who died in 2004, was a longtime partner in the Lincoln law firm Cline, Williams, Wright, Johnson & Oldfather and had an abiding interest in the Bill of Rights.

CLEP and the Nebraska Department of Education worked together to produce curriculum materials on the Bill of Rights in honor of the Bill of Rights’ 200th anniversary. “The support of the Flavel A. Wright Trust will enable us to update the materials and continue to teach them in Nebraska classrooms,” said Prof. Alan Frank, CLEP’s founder and faculty advisor.

The Nebraska State Bar Association also has a Bill of Rights program that was established in Wright’s

honor. Under the terms of the trust agreement, the two programs will consult with each other and work together in educating Nebraska’s public about the Bill of Rights.

the drinking-age requirement and highways was close enough), but in doing so it put limits on the Spending Power by finding that Congress cannot make the financial inducement so overwhelming that the requirement is coerced, rather than merely pressured.

Willborn asked whether we are being validly “pressured” or impermissibly “coerced” by Constitution Day under the Spending Power. “Here at UNL we have \$100 million in federal research funding and similar or greater amounts in federal loans, grants and work study funds that would be lost if we do not hold this celebration. The answer is obvious.”

“Although it seems like an odd bit of trickery, to violate the Constitution while requiring us to observe and celebrate it,” Willborn asserted “it is possible Congress did just that.” Adding to the irony is if the University were not to comply, none of us would likely have standing to challenge it, since we are not directly and substantially harmed.

“Dynamism, Definition and the U.S. Constitution”

In his talk, Wunder focused on the history and application of the Constitution, stating that historians have been of the opinion that the greatness of the Constitution “is its dynamism, its conservative flexibility and its dependability.”

However, today we are in a constitutional crisis. Wunder asserted that this is an era in which many judges subscribe to the greatest judicial activism ever seen in our country, even surpassing the constitution-stretching Warren Court, since many judges are misperceiving the intent of the Constitution. Their erroneous constitutional thinking is grounded in deceptive or false definitions, especially the rise of “strict construction,” which has led to a literal constitutional reading espoused as “original intent.”

Wunder argued that such a reading is fraught with problems. Those who constructed the Constitution did so at a time when there were no airplanes, electricity, or even much industry. It was an age of kings and queens, an age when Natchez, Miss., was the sixth largest city in the new nation. Those founders were a relatively small group that hovered near the Atlantic coast and primarily lived and died practicing subsistence agriculture.

When ideologies of early political leaders clashed, the Supreme Court would step in and clarify the law, and early on our country established the notion of interpreting the Constitution for guidance. “They balanced the political

dynamism with constitutional dynamism recognizing the obvious – that the words of the Constitution must be seen within a context that no longer exists,” Wunder said. Thus, *stare decisis*, the judicial rule of giving respect to precedent, was born as a balancing tool. This provided for predictability and stability by revering the past, but tempered this reverence with a modern applicability to current problems not anticipated by the founders.

As strict construction has evolved into “originalism,”

Wunder asserted that those who advocate such a literal approach to the Constitution are comparable to the Fireaters of the Confederacy during the Civil War or ravenous termites gnawing into the staid constitutional oak. They are destructive revolutionists from within. By believing that constitutional Convention minutes and the founder’s private writings are more important to understanding constitutional application than any other kind of reasoning, they strangely give this document clairvoyance or even god-like status.

Although the founders were intelligent, they were men of their own times. Some even

recognized they might be given too much significance someday. For example, Wunder showed that Thomas Jefferson anticipated this development just 40 years after Philadelphia. “Some men,” Jefferson wrote, “look at constitutions with sanctimonious reverence, and deem them like an arc of the covenant, too sacred to be touched.... Let us not weakly believe that one generation is not capable as another of taking care of itself, and of ordering its own affairs.”

Wunder stated that when some constitutional scholars started to point out how malleable “original intent” could be, constitutional revolutionists instead found that “original meaning” is more objective and important. For example, because the equal protection clause was not originally designed to mean that women were equal, by “original meaning” logic they should not be covered by the 14th Amendment. Therefore, the original meaning of 14th Amendment protections is what should control in the modern era.

In the end, the problem with strict constructionism and originalism is to deny modernity. Wunder concluded that this stretch of constitutionalism has an even greater problem: it would sadly deny the very greatness of the document itself – its dynamism. ■

“Although it seems like an odd bit of trickery, to violate the Constitution while requiring us to observe and celebrate it, it is possible Congress did just that.”

Dean Steve Willborn

The World of Public Interest Law: Students Breaking the Mold

BY W. JESSE WEINS

"Public interest law? With my student-loan debt?" This phrase is common in the Law College hallways. Yet, despite these statements (and despite the fact that tuition keeps rising), many law students are moving away from traditional practice and toward public interest law. Public interest law is an anomalous term, but it generally refers to any of the diverse areas of the law that are not intended as for-profit services. The public interest setting allows one to participate in work that he or she cares passionately about. These positions dramatically vary in purpose and therefore fit almost anyone's interests. Plus, assistance for students and graduates in the process is becoming increasingly available.



Mary Blecha

For over nine months, Mary Blecha, '06, worked in Omaha with a non-profit child advocacy group called Voices for Children in Nebraska. Blecha, who is from Omaha, attended college at Trinity University in San Antonio, Texas, and traveled for one year with "Up With People," a non-profit group of international students/cast members who

promote cultural understanding.

Voices for Children is a part of the Annie E. Casey Foundation. There is a Voices for Children in every state, as well as a national Voices for America's Children. These organizations advocate for children in many different sectors: lobbying legislators, educating the community and getting the message out about children's needs. Every year the Nebraska chapter publishes *Kids Count*, which is a small booklet on the condition of Nebraska's children, including the number of children in foster care, those in need of food stamps and the number of children abused, as well as child deaths and other juvenile justice statistics.

While working at Voices, Blecha collected media reports on any child story (child abuse, education reform, Medicaid – anything that had to do with children). During the legislative session, she drafted letters to Nebraska Senators about different bills her organization supported or opposed based on their effects on children. Blecha tracked legislative bills and helped write newsletters to explain the bills to Voices' supporters. She helped with several publications and wrote a report on the dangerous drug methamphetamine and its effects on children. Her report was quoted in the *Lincoln Journal Star* and used in an editorial by Mike Heavican, '75, U.S. attorney for Nebraska, in the *Omaha World-Herald*. She also presented her report to the Governor's Commission for Child Protection.

Blecha said that she found this job because she needed experience. "I was working the summer after my first year, writing briefs and doing the normal clerking stuff, but I didn't see myself doing that the rest of my life, so I wanted to see what other options were available." She then talked with former Career Services director Carla DeVelder about doing an externship. It was up to Blecha to find one, so she did research on different types of organizations in Nebraska that worked with children because she wanted to go into adoption law. DeVelder helped her find Voices, and after the externship was approved by Dean Pierce, she worked with them for a semester and received academic credit under the supervision of Prof. Alan Frank. During the summer, through grants from Nebraska Fund for Clerkships in the Public Interest, which are given primarily by the Equal Justice Society, and Equal Justice Works, part of AmeriCorp, Blecha was able to fund her job at Voices.

Because of her experience, Blecha highly recommends that students do externships in jobs they are interested in. "You get credit, so why not do it?" she stressed. "Plus, you become exposed to alternative jobs that you might not otherwise know about. I never thought I'd be working with a legislator or giving presentations on my findings!"

Tara Gardner

Tara Gardner, '07, worked for Nebraska Domestic Violence and Sexual Assault Coalition after her first year at the Law College. There she was involved in legislative



drafting of many types of bills, especially those regarding family law. She also researched joint-custody issues of other states to develop recommendations for Nebraska's custody statutes. Her focus for this research was on the effects of rebuttable presumptions against awarding custody to abusive spouses or batterers.

Gardner received income through a grant by the Nebraska

Fund for Clerkships in the Public Interest. NFCPI is a student run, non-profit corporation dedicated to removing financial barriers for law students who wish to secure public interest employment. Grants are awarded to law students for volunteer or low-paying public interest summer clerkships with nonprofit organizations, government agencies or private firms with a public interest practice.

W. Jesse Weins

The author, too, has had experience with a public interest internship. After my first year of law school, I clerked for The Alliance Defense Fund (ADF), a Christian organization dedicated to the advocacy of religious freedom, the sanctity of human life and traditional family values. Since its founding in 1994, the ADF has won nearly three out of four cases litigated to a conclusion. ADF trains interns and attorneys who later in private practice take on pro bono cases for the ADF in their geographic areas. Fortunately, the internship is paid through private donations, including intern travel expenses, so I did not have to find alternative sources of income over the summer.

With the ADF, I received three weeks of initial training in Phoenix, Ariz., regarding constitutional jurisprudence, public policy analysis, political theory and United States history. We listened to numerous authors and nationally-recognized legal experts, including law professors from various schools including the Law College's Professor Richard Duncan, and speakers from Harvard, the University of California at Hastings, Northwestern University, Notre Dame and Regent University, among others. We were also humbled by many judges who spoke, including three U.S. Circuit Court judges, an Idaho

Supreme Court judge and the chief justice of the Virginia Supreme Court.

Afterwards, the interns were dispersed throughout the country in positions with private firms, other advocacy organizations and the ADF regional offices. I was placed in the ADF regional office in Shreveport, La., with another intern from Florida, and we were kindly housed in Baptist church missionary apartments.

This ADF office consisted of just one attorney and his paralegal for a three-state area, so we had many and varied duties awaiting us. I began by writing a memo about an *ultra vires* argument concerning a city's alleged violation of the Arkansas constitution. The largest project that I worked on was co-authoring a model sexually-oriented business ordinance for nationwide use. Sexually oriented businesses may constitutionally be regulated in ways to reduce their negative "secondary effects," like crime, disease and urban blight. The ADF attorney and I studied many such existing ordinances and compared them with cases on the subject in an effort to construct a model adaptable to localities and states.

One of the best parts about this internship was the sheer variety of my duties. I had continuous client contact with a woman who was concerned that her locality had illegally increased its fees for public records. I also spent time researching health facility regulations, zoning and use-regulations law and employment discrimination law, as well as many constitutional issues. I drafted judgments and public records requests. I audited many public entities – like municipalities, public schools and public libraries – concerning the constitutionality of their policies. I even had the opportunity to appear and speak on this attorney's weekly radio show! We traveled together to many of his speaking engagements at churches and media events, and I laughed with him after his appearances on Fox News and *Hardball with Chris Matthews*.

A public interest internship allowed me to gain a great amount of legal experience, and I certainly feel fortunate to have been an intricate part of an effort that I believe in. ■



The New Nebraska Rules of Professional Conduct: A Brief Overview

BY SUSAN POSER

ASSOCIATE PROFESSOR OF LAW AND DIRECTOR UNL CENTER FOR THE TEACHING & STUDY OF APPLIED ETHICS

On September 1, 2005, Nebraska became the 46th state to adopt a version of the American Bar Association's Model Rules of Professional Conduct. These Rules replaced the Nebraska Code of Professional Responsibility, which had been in force for 35 years.

This article will briefly describe the process that led to the adoption of the Rules and will highlight some of the

significant changes about which Nebraska lawyers should be aware.

The Process

In early 2003, a subcommittee of the NSBA Ethics Committee was formed to review the American Bar

Association (ABA) Model Rules of Professional Conduct and propose their adoption in Nebraska. Professor Larry Raful of Creighton University School of Law (now dean at Touro Law School in New York) chaired the subcommittee and I served as reporter. The subcommittee met from February through November 2003 and reviewed all of the Model Rules. A web site linked to the NSBA webpage was created so that the public could follow the subcommittee's work. After each meeting, the reporter posted the rules that had been tentatively adopted by the subcommittee on the website.

When the subcommittee completed its review, the proposed Nebraska Rules were reviewed and approved by the NSBA Ethics Committee, the NSBA Executive Council and finally the NSBA House of Delegates in January 2004. A Petition for Adoption of the Nebraska Rules of Professional Conduct was submitted to the Nebraska Supreme Court in February 2004. The Court reviewed the Rules and put them out for comment twice before adopting



Dean Steve Willborn presents Prof. Susan Poser with the Shining Light Award from the Nebraska State Bar Foundation. The award recognizes Poser's work as reporter on the subcommittee of the NSBA Ethics Committee that recommended the adoption of the new Nebraska Rules of Professional Conduct. The Shining Light Award recognizes outstanding legal research conducted by a lawyer in Nebraska, whether a practitioner, academician or a non-practicing lawyer.

them in June 2005. By joining nearly all other jurisdictions in its adoption of the Rules, Nebraska lawyers and courts can now benefit from and contribute to the jurisprudence interpreting the Model Rules in other states as well as the vast scholarly commentary on the Rules.

Overview of the Model Rules

The timing of Nebraska's adoption of the Rules was fortuitous because it followed a complete review of the Model Rules by the ABA. The Model Rules were first adopted by the ABA in 1983 thanks largely to the efforts of Nebraska's own Robert Kutak. In 1998, an ABA Commission was formed to do a complete review and propose revisions. This Commission, known as the Ethics 2000 Commission, reviewed all of the Rules and recommended changes and additions, many of which were subsequently adopted by the ABA House of Delegates in 2002 and 2003. The work of the Ethics 2000 Commission was supplemented by the work of two other ABA commissions that addressed Rule 5.4 (Professional Independence of a Lawyer) and Rule 5.5 (Multijurisdictional Practice). Nebraska had the benefit of these latest reviews when it took up its consideration of the Rules.

The first thing one notices about the new Rules is that they are in Restatement form – black letter rule followed by comments. The Restatement format is familiar to all lawyers, and the value of having comments to these Rules is substantial. Particularly after the recent ABA revisions, the comments are excellent guides to understanding and interpreting the Rules.

The Rules are divided into eight Articles, each of which addresses a different aspect of the lawyer's role or practice. These Articles are: 1) The Client-Lawyer Relationship, 2) Counselor, 3) Advocate, 4) Transactions with Persons Other Than Clients, 5) Law Firms and Associations, 6) Public Service, 7) Information About Legal Services, and 8) Maintaining the Integrity of the Profession.

The Rules also include a Terminology section (Rule 1.0), which sets out definitions for commonly used concepts such as "informed consent" (this replaces the Code's "consents after consultation" and is modeled on the tort standard for professional negligence in medicine) and "screened" (a new concept in Nebraska discussed below).

Significant Changes from the Current Nebraska Code

Most of the new Rules will be familiar to Nebraska lawyers in their content if not their form. Nevertheless, there are some significant changes about which Nebraska lawyers should be aware. The following is a brief description of the most significant changes, with the caveat that this is a sampling, not a complete list, and it is not a substitute for reading and becoming familiar with all of the Rules and Comments.

1. Conflicts of Interest

Perhaps the most heralded change for Nebraska lawyers is that the "bright line" rule has been abolished. The bright line rule meant that if a lawyer worked on a matter for a firm and left that firm, the lawyer was conflicted out from subsequently working on a substantially related matter that was adverse to a client of the former firm, and that conflict was imputed to all other members of that lawyer's new firm. This conflict and imputation existed regardless of whether the lawyer who changed firms actually had any confidential information about the client of the former firm, i.e., the presumption of confidential information was irrebuttable. This rule was slightly less strict for secretaries, paralegals and law students who clerked in a firm during a summer.

Under the new Rule (Rule 1.9(b)), in order for the lawyer changing firms and the new firm to have a conflict in this situation, the lawyer has to possess confidential information about the client of the former firm. The Comments state that it is the migrating lawyer who has the burden of demonstrating no confidential information. Thus, the presumption that the lawyer possesses confidential information has gone from being *irrebuttable* to being *rebuttable*. That is the change that eliminates the bright line rule.

2. Confidentiality

The distinction in the Nebraska Code between confidences and secrets is eliminated by the new Rules. Under the new Nebraska Rules, confidential information refers to anything "relating to the representation" of the client (Rule 1.6(a)). The exceptions in Rule 1.6 are all permissive, not mandatory. The Rules retain the exception from the Nebraska Code that the lawyer may reveal confidential information to prevent the client from committing a crime, and adds "or to prevent reasonably certain death or substantial bodily harm" (Rule 1.6(b)(1)). It should be noted that the second exception for death or substantial bodily harm refers to conduct by anyone, not just the client.

Notably, the new Nebraska Rules do not contain the so-called Enron Amendments to confidentiality, which the ABA added to the Model Rules in 2003. These amendments permit revelation of the client's confidential information to prevent, mitigate and rectify financial crimes in some circumstances.

3. Candor Toward the Tribunal

Nebraska has adopted the recent revision to the Model Rules that requires a lawyer who comes to know that her client has offered false evidence during the course

of proceedings before a tribunal to disclose that fact to the tribunal if the lawyer cannot get the client to recant (Rule 3.3(a)(3)). It is clear that this includes disclosing otherwise confidential information. Under the Nebraska Code, disclosure under these circumstances was not required if the information was protected as a privileged communication.

4. Multijurisdictional Practice

Rule 5.5 was added to the Model Rules by the ABA in 2002 and is new in Nebraska. This Rule was the result of the work of an ABA Commission that studied the increasing phenomenon of lawyers licensed in one state practicing law in another on a temporary basis. The most significant change that Rule 5.5 enacts is that it explicitly permits lawyers admitted in another state to practice law in Nebraska if it is temporary and "arises out of or is reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice." (Rule 5.5(c)(4)). This rule acknowledges the reality that the old rule against lawyers practicing temporarily in a state where they were not licensed was honored primarily in the breach. This is an interesting rule because adoption in Nebraska actually benefits non-Nebraska lawyers, but we should take comfort in the fact that as of October 2005, 25 states had adopted the same or a substantially similar rule, including Iowa, South Dakota and Colorado.

5. Fees

The subcommittee recommended that the new Rules require that fees in excess of \$500.00 be put in writing, but the adopted Rule only states that such fee agreements be communicated to the client "preferably in writing" (Rule 1.5(b)). The Rule does require that contingent fees be in writing (Rule 1.5(c)). The Nebraska Rules on fees also contain a provision that is not in the Model Rules that requires that, upon request by the client, the lawyer must provide the client, without charge, an accounting for

fees and costs that is itemized and contains a sufficiently detailed description of services performed (Rule 1.5(f)).

6. Screening

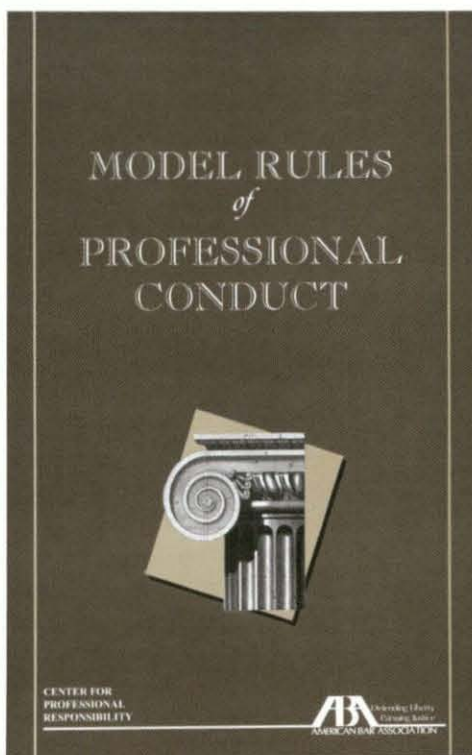
Screening refers to the ability of a law firm or other practice group to prevent the imputation of one lawyer's conflict of interest to the other lawyers in the firm. Under the Nebraska Code, there was no screening of lawyers, so if one lawyer had a conflict, the lawyer's whole firm (or government department) was considered to have the conflict.

The new Nebraska Rules permit screening in several circumstances, including when a law clerk, paralegal or secretary has a conflict of interest (Rule 1.9 (e)); when a lawyer has confidential information from a *prospective* client who did not engage the firm (Rule 1.18(d)(2)); when a lawyer serves as an arbitrator, mediator or other third party neutral (Rule 1.12(c)(1)); when a lawyer moves from the government to private practice (Rule 1.11(b) & (c); and when a lawyer has a conflict because of a sexual relationship with the client that began after the representation (Rule 1.8(j) & (k)). Thus, screening is only permitted for certain types of conflicts of interest and only if it is "timely" and "reasonably adequate" (Rule 1.0(k)).

Conclusion

There are many other new and interesting provisions in Nebraska Rules of Professional Conduct about which space constraints prevent discussion in this article. Included among them are Rule 1.14 – Clients with Diminished Capacity, Rule 4.1 – Truthfulness in Statements to Others, and Rule 6.1 – Voluntary Pro Bono Service.

By updating and clarifying the duties owed by Nebraska lawyers and bringing this regulation into conformity with the regulatory framework in the vast majority of states, the new Nebraska Rules of Professional Conduct are a positive step forward for lawyers and clients in Nebraska. ■



■ Guest Speakers Enlighten Law College Community

BY W. JESSE WEINS



■ **Jack Bass: Herbert Brownell and *Brown v. Board of Education***

Jack Bass visited the Law College on September 29, 2005, and shared his historical expertise on “Herbert Brownell and *Brown v. Board of Education*.” His visit marked the 50th anniversary of the Supreme Court’s decision in *Brown II*, which ordered lower federal courts to proceed with school desegregation “with all deliberate speed” and to apply equitable principles, which was especially necessary due to the stalling of the Southern legislative authorities.

Herbert Brownell was born in Peru, Neb., and later grew up in Lincoln. After graduating from the University of Nebraska, he attended Yale Law School, earning his law degree in 1927. Although his image is that of a Wall Street lawyer who managed the presidential campaigns of Republicans Thomas Dewey and Dwight Eisenhower, Brownell actually absorbed the Progressive tradition of his cousin, Susan B. Anthony, and Nebraska Senator George Norris.

Brownell served as an important link in the process of desegregation because of his role in the selection of federal court judges, including Frank Johnson to the Fifth Circuit Court of Appeals and Earl Warren as chief justice of the U.S. Supreme Court. The Fifth Circuit at that time covered six of the eleven former Confederate states where racial segregation was the norm. This court furthered the expansion of the 14th Amendment’s due process and equal protection clauses to open new

opportunities, largely by the influence of judges hand-picked by Herbert Brownell.

Jack Bass is author or co-author of seven nonfiction books about the American South. His works have focused on Southern politics, race relations and the role of law in shaping the civil rights era. Since 1999, he has been professor of humanities and social sciences at the College of Charleston.

■ **Connie Collingsworth: The Bill & Melinda Gates Foundation**

Connie Collingsworth, ’82, visited the Law College on September 30, 2005, to speak about The Bill and Melinda Gates Foundation. She is currently the foundation’s general counsel and sees her legal career as opening doors through the foundation for brilliant visionaries to help those in need.

The foundation espouses two core values: 1) all lives, no matter where they are being led, have equal value, and 2) to whom much has been given, much is expected. Four main target areas promote these values.

Through its *Libraries* division, the foundation supports free public access to information by supporting libraries with computers and training. The *U.S. Education* division works to ensure that all students graduate from high school ready for college, work and citizenship. This is fostered through supporting great high schools, closing racial gaps, increasing graduation rates and providing 25,000 full scholarships to minority and low-income students. The goal of the largest and “most fun” division, *Global Health*, is to reduce the gap between rich and poor countries in the fields of poverty and health. The *Pacific Northwest* division helps at-risk families in Washington by providing housing and support services. Finally, the foundation aids one-time *Special Projects*, such as providing \$3 million in aid to Hurricane Katrina victims.





■ **Attorney General Jon Bruning**

Attorney General Jon Bruning, '94, shared his experience as Nebraska's attorney general at the Law College on October 3, 2005.

Before becoming attorney general, Bruning was twice elected to the Nebraska Legislature, serving six years as a state senator. When Bruning became attorney general in 2002, he was the youngest one ever elected to the office in U.S. history. Bruning spoke about the importance of being fair and just in prosecutions and the nonpartisan nature of his office. Although there are difficult aspects, such as the emotional involvement with atrocious cases, "it's the best job in the world," he stated.

■ **George Freeman: Assistant General Counsel of New York Times Company**

George Freeman visited the Law College on October 11, 2005, and shared his experience as assistant general counsel of the *New York Times* Company.

Freeman enjoys his job because he gets to combine the fields of journalism and law, and he is involved in many interesting issues. He "vets stories" before they are printed, which allows him to evaluate the risks of suits for libel or invasion of privacy while keeping as much news in the story as possible. Freeman is also involved in litigation. He noted that it is becoming increasingly important to use more than only confidential sources because it becomes difficult to prove the accuracy of a story when the *Times* cannot disclose the source's identity. The *Times* desires to be truthful to readers by printing retractions when it makes a mistake, but Freeman noted that it is important to check the facts first and not simply rely on a party's demands. The *Times* does not settle cases, as it believes the justice system should decide the issues.

Lawyers like Freeman also try to keep reporters from being unnecessarily subpoenaed. Otherwise, since reporters are often at the scenes of crimes and accidents, their time can become monopolized. Finally, he gets access to materials through Freedom of Information Act requests and gives counsel to the news gathering process. While First Amendment protections are helpful to reporters regarding libel issues, they are not strong regarding regular reporting issues like investigating email and voicemail, the need to keep contacts confidential and avoiding trespass.

Freeman is chair of the First Amendment and Media Litigation Committee of the American Bar Association's Litigation Section. From 1992 to 1996, Mr. Freeman was chairman of the New York State Bar Association Media Law Committee.



■ **Laura McDonald: Fellowships and PSLawNet**

In September, Laura McDonald of PSLawNet visited the Law College to speak with students about fellowship opportunities. PSLawNet, the National Association for Law Placement (NALP)'s Public Service Law Network Worldwide, is a network of 150 law schools and more than 12,000 law-related public interest organizations in the U.S. and around the world.

Through its online database, PSLawNet provides a comprehensive clearinghouse of public interest organizations and opportunities for lawyers and law students. Users can perform customized searches of public interest opportunities around the world, ranging from short-term volunteer and paid internships to full-time jobs, fellowships and pro bono opportunities.

Generally, fellowships are one to two year post-graduate internships in various contexts, but often in fields of public service. They are a great way to get a foot in the door with public interest communities. Many such organizations cannot hire large numbers of entry-level employees.

Moreover, such positions allow one to work with seasoned professionals, who are passionate about the same topics as the student or graduate. They are also a good way to get into a legal market.

Fellowships come in a great variety, but there are categories that help seekers find those that best fit their goals and skills:

Project-Based Fellowships provide interested applicants with the funding to work for a host non-profit public interest organization, generally known as a fellowship sponsor or host organization. These grants require that fellows design an original project to perform at a non-profit organization for one to two years.

Entrepreneurial Fellowships operate under the same principle but are not specific to the legal community and can be used to fund a wide range of public service projects.

Organization-Based Fellowships provide funding for fellows to work on a specific project within that organization for the duration of the fellowship. Some organization-based fellowships, often sponsored by private law firms, allow students to work with any non-profit public interest law organization.

Firm-Sponsored Fellowships are similar to organization-based fellowships, except that they are provided by a law firm. The fellowships consist of spending a fixed period of time with the sponsoring firm, often a year or two, and taking cases pro bono.

Policy Fellowships can be organization based or provide funding for independent research projects. Organizations vary from private non-profits doing advocacy work to large think tanks. While some of these fellowships may serve as a springboard into a policy career for recent law school graduates, many are offered only to professionals with 5 or more years of experience in the field.

Teaching Fellowships are generally offered by law schools for students who plan to pursue teaching and legal scholarship. They help recent graduates and young lawyers transition into the legal academic arena.

Research Fellowships provide funding for legal research projects in a wide assortment of practice areas. Many of these fellowships are very specific regarding the type and scope of the research performed.

Non-legal Fellowships may help students gain access to another field, such as public administration, teaching or foreign relations.

■ **Clayton Yetter: Experiences in Trade Policy**

Clayton Yetter, '63, visited the Law College on October 28, 2005, and shared his "Experiences in Trade Policy."

Yetter is of counsel to Hogan & Hartson, one of the nation's largest law firms. Stressing the growing impact of global issues, he noted that all students should be aware of the international legal scene. For example, Hogan & Hartson has new offices in Beijing, Shanghai, Hong Kong, Geneva and Caracas, among others.

Specifically, in his position as a counselor regarding trade policy, Yetter described the rewarding way in which he, and others like him, can indirectly help clients. By protecting U.S. interests in trade and by promoting fair trade throughout the world, positions like Yetter's are of crucial significance to promote national and international justice. As an example, Yetter recounted how his firm exonerated the defendant Corning Optical Fiber from an anti-dumping lawsuit in China. Such a victory in China for a defendant in an anti-dumping suit is something that occurs about "once every ten years."

Yetter was a colleague of U.S. Supreme Court Chief Justice John Roberts at his firm and was pleased with the nomination, saying that Roberts has the potential to be the best chief justice in U.S. history.

Yetter has served in cabinet and sub-cabinet posts under four U.S. presidents. Between 1985 and 1988, he served as U.S. trade representative. While in that position, he maneuvered the 1988 Trade Bill through Congress, helped to launch the 100-nation Uruguay Round of GATT negotiations, and led the American team in negotiating the historic U.S.-Canada free trade agreement.

In 1989, President Bush named Yetter secretary of agriculture, where he served as the administration's point man in steering the 1990 Farm Bill through Congress. That legislation helped to move U.S. agriculture toward a more market-oriented policy structure and laid the groundwork for a major expansion in U.S. agricultural exports.





■ **Mark Crawford: Current Pharmaceutical Liability**

Mark Crawford, who is with the San Francisco office of Lopez, Hodes, Restaino, Milman & Skikos, visited the Law College on October 13, 2005, and shared his experiences representing plaintiffs in the current wrongful-death litigation in California arising out of the use of Mifoprex (RU 486).

Mifoprex is a drug that, in conjunction with another, causes an abortion by breaking the embryo's bond with the uterine wall. Originally discovered in France, this drug was approved by the FDA in 2000, and it has since caused four deaths in the U.S. Crawford has represented three of these four in litigation. Since the drug can impair the immune system, these women died about six or seven days after taking Mifoprex from rare bacterial infections.

Such pharmaceutical products are considered legally defective if there was a breached duty to warn purchasers. This "duty to warn" is only incurred when the best scientific and medical knowledge then known at the time of manufacture and distribution speaks of associated dangers. Therefore, companies must revise their labels when reasonable evidence shows an

association between serious adverse reactions and the drug. Crawford believes he can prove the pharmaceutical company failed to adequately warn consumers because, among other evidence, it knew of a death in Canada from a clinical trial and recommended a lower dosage early on, yet did nothing to warn future purchasers, such as include a warning of death or serious side effects on the label. Indeed, clients were told there were "no risks."



(Top) The marble rests on the top of a radiator in the library of the old Law College building at 10th and R streets. (Bottom) After its journey home from Phoenix, the marble sits on a specially constructed wooden base in the Dean's Office at the College's current home on East Campus.

■ **Round Marble Returns Home**

Round marble slab. 35" in diameter. 1" thick. From Old Law building at University of Nebraska-Lincoln.

When Dean Steve Willborn saw this notice in the classified advertisements section of the *Lincoln Journal Star* in 2003, he knew he had to call. The round piece of marble had been salvaged from the dump truck when the former College of Law building on City Campus was refurbished more than a quarter-century earlier. Since then, it had rested on a makeshift stand on the patio of a former Lincoln resident in Phoenix. The purchase was made.

But the marble was in Phoenix and moving companies are less than enthusiastic about moving fragile pieces of marble cross country. So in June 2004, Willborn and his youngest daughter, Jane, went to Phoenix, rented a car and began the long trip to return the chunk of marble to its proper home. All three visited the Painted Desert, stayed overnight in Taos and ate at Ole's Big Game Steakhouse & Lounge in Paxton (ok, ok, the marble didn't eat).

Today, the marble has been refinished and fitted with an attractive wooden base. Located in the Dean's Office, the new coffee table serves as a visible reminder of the connections between the old and new law school buildings, one of the few remaining (not counting the human beings who 30 years ago attended law school in both places). Next time you're in Lincoln, Willborn extends an invitation to his office to see this piece of the history of the Law College.

■ Up & Running: New Student Organizations

Three new and diverse student organizations were formed at the College of Law in the past year. As stated on the Law College's website, such "organizations and activities provide students with an opportunity to become more involved in the College and the community, to promote common goals, to share common experiences and sometimes just to kick back and relax."

■ **Nebraska Entertainment and Sports Law Association**

The fields of entertainment and sports law are growing. These types of practices often center on intellectual property law – particularly copyright, trademark and unfair competition – but also require considerable familiarity with communications law and labor and employment issues.

The Nebraska Entertainment and Sports Law Association (NESLA) was co-founded by Amber Shavers and Rebekah Caruthers, members of the Class of 2007. Before law school, Shavers worked in the entertainment field on both the east and west coasts. Her experience, along with Caruthers

strong interest in the area of sports law, led the students to form the association. Prof. Anna Shavers is the society's faculty sponsor.

The goals of the organization are to bring awareness to the Law College and the Lincoln community about the opportunities and challenges of entertainment and sports law. Planned activities include a NESLA week of speakers and activities, entertainment- and sports-specific academic workshops and creating a student alumni network linking Nebraska alumni practicing entertainment and sports law with students interested in either field.

■ **The St. Thomas More Society**

The St. Thomas More Society is a national Catholic law society composed of law students, faculty and legal scholars.

According to the organization's website, the goal of the society is "to inspire and lift up the minds and hearts of the legal community ... to follow the example of St. Thomas More by integrating God in every aspect of their professional and personal lives." The society works toward this goal through inspirational speakers, meetings, attending masses, and other events. The society also seeks to provide a haven where those who are committed to their Catholic faith, as well as those who are seeking to learn more about the Church, can find fellowship and encouragement through each other and the rich intellectual history of Catholic legal thought.

Exact missions of the chapters vary, but the overall objective is to integrate the rich history of Catholic thought and teaching with the study and practice of law. Prof. Colleen Medill is the society's faculty sponsor.

■ **J. Reuben Clark Law Society**

The J. Reuben Clark Law Society (JRCLS) is an international association of law students and attorneys that focuses on maintaining religion and ethics within the practice of law. The College of Law's student chapter of The J. Reuben Clark Society was formed in large part because of the growing number of students who are members of the Church of Jesus Christ of Latter-day Saints



Supreme Court Justice John Gerrard; Judge Vernon Daniels, '83, of the Douglas County Separate Juvenile Court; Judge Jan Gradwohl, '54; and Professor John Gradwohl, '53, were recognized by the Black Law Students Association (BLSA) for their contributions to BLSA at Breaking Bread with BLSA, a potluck dinner co-sponsored with the Multi-Cultural Legal Society. On the right is dinner organizer, Daniel Dawes, '06.

(LDS). The society also encourages non-LDS persons who care about the society's mission and want to take part in the organization to become members.

The Law College's chapter activities include weekly organized discussions; monthly potluck gatherings, which include a featured speaker; and service projects.

The law society is guided by the philosophy, personal example and values of its namesake, J. Reuben Clark, who graduated from Columbia Law School in 1906 and held many political, professional and educational positions throughout his life.

The JRCLS promotes public service, loyalty to the rule of law and appreciation for the religious dimension in society and in a lawyer's personal life. The mission statement and purpose of the JRCLS states: "We affirm the strength brought to the law by a lawyer's personal religious conviction. We strive through public service and professional excellence to promote fairness and virtue founded upon the rule of law."

Prof. Martin Gardner is the faculty sponsor for the group, and in its beginning, unofficial meetings took place at his home. However, the group has been student-initiated and student-led from the start.

-W. Jesse Weins

■ Students Enjoy Four-Week Course in Entertainment Law

A special course in Entertainment Law was taught over the course of four days by Robin Mitchell Joyce, a prominent entertainment lawyer from Nashville. The beginning of the course introduced the students to the basic concepts of copyright law and how they affected executing long-term contracts between entertainment lawyers and their clients. After learning about the foundations of a contract in the industry, the course delved more

specifically into three common agreements that entertainment lawyers work on.

The first was the exclusive songwriter agreements between publishing companies and songwriters. These deals contained advances for the songwriters to live on. Most deals were only for one year but contained one-year

options to extend the contract at the discretion of the publishing company.

The second in-depth evaluation of a contract dealt with exclusive recording agreements between record companies and artists. These deals also contained advances for the artists to live on while recording, but showed how hard it is for the artists to actually make any money because they receive less than a dollar on each CD sold and have to pay the record company for all of the costs incurred in making the album.

The last agreements the class looked at were those defining a joint venture between two parties to create a screenplay, television show or film. In these agreements, it was important that the parties clearly defined their various roles in the venture and for how long they wanted their attempted



Robin Mitchell Joyce

venture to last before the partnership would dissolve.

Overall the students saw how important it was for an entertainment lawyer to carefully craft agreements, which can last well over five years, and to ensure all of their client's rights and works were protected.

The students enjoyed the class, however brief, and the insight it gave them into how complicated and diverse a practice in entertainment law could be. Heidi Sprague, a 2L, commented, "It was a good class, but too short." Joe Kishiyama, another 2L, explained that he wished he could play the guitar to get a recording deal because being an entertainment lawyer sounded far too complicated. The overall impression of those taking the class was that they very much enjoyed the class and only wished it could have lasted longer.

-Ryan Lindberg



■ **Mel Shinn Day Features Picnic, Sports**

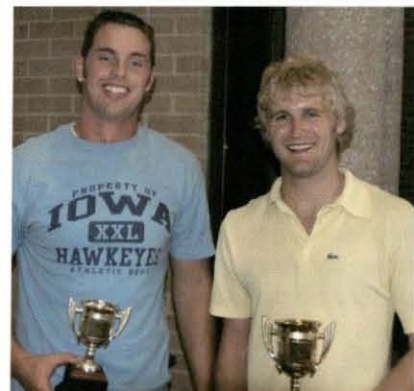
The annual Mel Shinn Activities Day at the College of Law was held on September 9, 2005. It was a beautiful September day in Nebraska – perfect for outdoor activities. The afternoon of good food and recreation began with the All-School Picnic and the semi-final and final rounds of the 2nd Annual Bocce Tournament. The picnic and tournament were held on the Law College's beautiful new Schmoker Courtyard north of the library. Dean Steve Willborn instituted the Bocce Tournament in 2004. Unfortunately, despite weeks of practice each summer before the annual tournament, Willborn has yet to progress to the final rounds. The semi-final pairings were 1L Josh Dively vs. 3L Matt Watson and 2L Ryan Lindberg vs. Prof. Luke Meier. Lindberg defeated Josh Dively in the final round to secure the championship trophy.



The Mel Shinn Day activities continued in the afternoon with basketball, tennis, bowling, bicycling and a 5K fun run/walk. Mel Shinn Day has been a tradition at the Law College since 1980, when it was established in memory of Mel Shinn, a member of the class of 1966.

Mel Shinn came to the University of Nebraska from Hawaii primarily to play baseball. Sports continued to be of interest to him throughout his life. After graduating from the Law College, Mel Shinn returned to Hawaii and had a distinguished career. He was a legislative aide to U.S. Senator Hiram Fong from Hawaii, deputy corporate counsel for the City of Honolulu, general counsel to the Honolulu Redevelopment Agency and then head of the agency. He joined state Senator John Ushijima's staff in 1971, serving as chief clerk of the Senate Judiciary Committee, and later as the senator's chief assistant, while maintaining a private law practice in Honolulu. Shinn died unexpectedly in the spring of 1979 in the middle of a jury trial. His classmates, who remembered Shinn as an organizer of athletic and social events, created a fund to help support recreational activities for law students.

In the early years of Mel Shinn Day, there was a golf tournament for the Law College community. In 1985, the Mel Shinn sports activity was changed to a 5K fun run/walk around the East Campus Loop. In the late 1990's, Mel Shinn Day was expanded to include basketball, tennis, bowling and bicycling so that more students, faculty and staff would participate in the events. The Student Bar Association helps coordinate all of the sports activities.



'Hope for a Global Ethic'

Professor Brian Lepard's Book Finds Hope in Ethical Principles Shared by World's Great Religions

Brian D. Lepard, professor of law at the College of Law, is the author of *Hope for a Global Ethic: Shared Principles in Religious Scriptures*, published by Bahá'í Publishing. In the book, which is intended for a general audience and available through commercial booksellers, Lepard attempts to answer the question: "How can we look with confidence to the future in a world traumatized by terror, war and human rights violations?" *THE NEBRASKA TRANSCRIPT* recently talked to Lepard about his book.

TRANSCRIPT: Can you give us a brief synopsis of your book?

LEPARD: The book is about the common ethical principles shared by the world's religions. It makes the case that we can find these shared principles and that they can provide a basis for dealing with the immense problems facing the world today. So in that sense it gives hope, and that's why it's called "Hope for a Global Ethic."

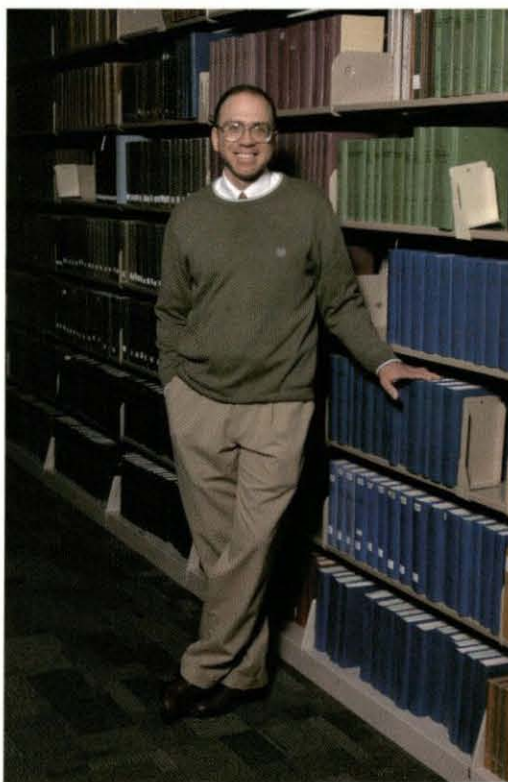
TRANSCRIPT: Which religions did you study?

LEPARD: Hinduism, Judaism, Buddhism, Confucianism, Christianity, Islam and the Bahá'í Faith. These are the seven religions that have the strongest claim to be world religions in the sense that their members live in many countries around the world.

TRANSCRIPT: How did you come to write this book?

LEPARD: It really is the outgrowth of a previous book I wrote, *Rethinking Humanitarian Intervention: A Fresh Legal Approach Based on Fundamental Ethical Principles in International Law and World Religions*. In the course of my research, I perceived that the legal problems of humanitarian intervention – the use of force to protect human rights victims – were closely interrelated with important ethical issues. And it seemed to me that the

world religions were potent sources of ethical inspiration for most people and governments around the world. I discovered that many common ethical principles, in fact, could be mined from the scriptures of the world religions. Further, these shared principles support similar principles in contemporary international law.



TRANSCRIPT: What are some of these ethical principles shared by the world's religions?

LEPARD: First and foremost is the one I call "unity and diversity," which is the principle that all human beings are morally united as members of the human family while, at the same time, they can and should take pride in the diversity of their ethnicities, their religious practices and their individual opinions and beliefs. This principle is a central concept in the scriptures of all the major world religions. All of the scriptures articulate the idea that we are fundamentally members of a single human family and that we are all the children of God, but they also open the door to valuing diversity. One of the more interesting things that I've discovered in my research is that all the scriptures endorse respecting members of other religions despite the fact that we see so much warfare today based on the idea that one's religion is the only true path and that nonbelievers have no rights.

That is the central principle, but I also write about related principles like the Golden Rule, which is shared by all the great religions, and personal virtues like forgiveness, patience, compassion and love. These are central moral teachings of all the great religions.

TRANSCRIPT: Might not a cynic say that you are overemphasizing these similarities and ignoring facets of these religions that proclaim that this religion is superior to others and that it is the only true path to salvation?

LEPARD: That certainly is a valid perspective. In the book I used the scriptures selectively, and I acknowledged that up front. However, even if there are passages that seem to contradict them, it seems to me that it's significant that one can find these basic similarities. Moreover, just like legal texts, scriptural passages need to be read in context. I make the argument that passages that seem to endorse actions like the killing of infidels are contrary to the scripture's underlying principles and can be explained as essentially very limited exceptions to these general principles that only apply in very particular circumstances.

For instance, the Koran teaches that we are all children of one God, and it endorses freedom of religion. The Koran calls on Muslims to cooperate with Christians and Jews and to work together to promote justice. Obviously these are not the passages that terrorists groups are emphasizing, and they probably find their own ways to explain them away, but if you read the Koran as a whole, undoubtedly the central message is one of the unity of the human family as well as respect for those of other religions. Interestingly, the concept of jihad in the Koran is a spiritual concept, a concept of the inner battle we engage in to lead a good life and to struggle against the forces of our lower nature. This can sometimes take the form of external action that is not necessarily military action and certainly not the targeting of innocent civilians, which is clearly prohibited according to the text of the Koran. The Koran is well over a thousand years old, and there has been time for a whole body of subsidiary Islamic law to develop that isn't necessarily grounded in the Koran. There are many Muslim scholars who have pointed this out.

TRANSCRIPT: What led to your interest in international law and, in particular, humanitarian principles in law and religion?

LEPARD: A number of factors played a role. One was my own beliefs as a member of the Bahá'í Faith. One of the fundamental teachings of the Bahá'í Faith and its prophet Bahá'u'lláh is the unity of the human race, and the Bahá'í scriptures call for the establishment of international

cooperation through international law. As a young person, I was very much influenced by these teachings and this vision, and that led me to study international relations, and particularly international law and international organizations, when I was an undergraduate at Princeton University. I also had an interest in religious freedom and those interests led me to Yale Law School. Further, I worked on human rights issues at the Bahá'í office at the United Nations for three years after college.

TRANSCRIPT: It must have taken a lot of reading and study to put this book together. How did you go about doing it?

LEPARD: Yes, it took many years. It seems as though whenever I want to learn about a subject I write a book on it! I began by searching out articles written on human rights, warfare and peace by religion and philosophy scholars who were members of particular religions. In this way, I was able to identify what are the most important scriptural passages from the perspectives of members of each of these religions. Then I read these significant portions of those scriptures myself. Later I corresponded with many of these religion scholars and asked them to review what I had written and, of course, they were very helpful in providing feedback and comments. That led me to further research in what turned out to be an eight-year-long project.

TRANSCRIPT: You point out that one can find in these great world religions a set of shared ethical principles and that these offer hope for the future. Why is there hope?

LEPARD: Certainly there's a lot of reason for pessimism in today's world. But one of the main methods that I identify in my book for countering that pessimism is what I call "open-minded consultation," a principle that is endorsed by all of the scriptures. According to the principle of open-minded consultation, one of the best ways to address problems is to share perspectives, not with the aim of simply convincing others to adopt your own point of view, but with an attitude of learning and trying to find the best solution. This is a process of dialogue in which the aim is to reach a higher level of understanding through the sharing of different perspectives. You can find many examples of this. International law is an attempt to formulate rules to facilitate cooperation through a consultative mechanism. The United Nations represents a forum where consultation can occur. What is required is consultation at all kinds of levels, obviously among governments in fora like the United Nations, but also among individuals in our local communities. If we begin by appreciating the fact that we share common principles, then try to work constructively in our communities to implement them, there is a great deal of reason for optimism. ■

Kalish, Snowden Retire

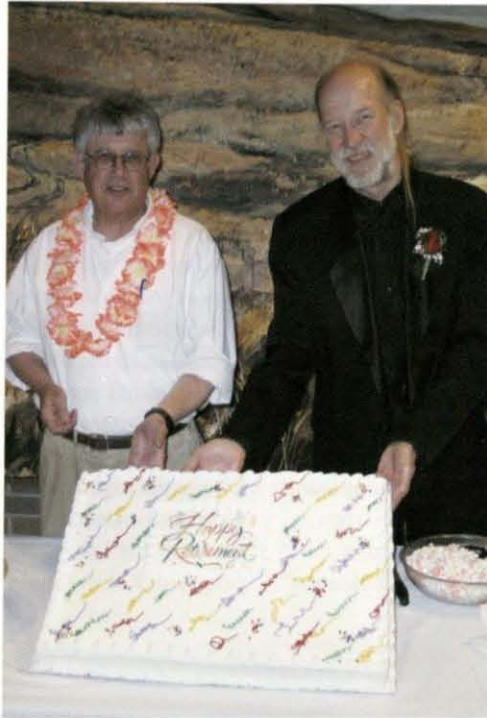
Law College Professors Brought Historical, Political Perspective to Their Teaching

Two law professors who tried in their teaching to help students look at the law in different ways retired from the College of Law faculty at the end of the 2004-2005 academic year. Perhaps fittingly, soon afterwards the course with which professors Steve Kalish and John Snowden were most closely associated – Legal Process – was retired as a required first-year course.

To Kalish, the Legal Process course, as well as other courses he taught such as Legal History, was a vehicle to emphasize to law students that “the study of law was more than the preparation for a trade;” rather, the study of law “expressed the best of a humanistic enterprise.” To Snowden, the Legal Process course “was the key to all understanding of law and the way lawyers operate.” Key to that understanding was the relationship and tension between law and fact. Said Snowden, “The most important thing I ever taught any of my students or learned myself is that the primary question in law is: Is X a Y for the purpose of Z? Is this bear a dog for the purpose of ‘no dogs in the waiting room’? Is this woman a widow for the purpose of the insurance contract?”

While both professors feel it is unfortunate that Legal Process is no longer part of the first-year curriculum, both understand the Law College’s desire to lessen the course load (and tuition bills) of the first-year students. The concepts he and Kalish tried to impart through the Legal Process course, said Snowden, can be picked up in any number of other courses.

Both professors credit their participation in Harvard Law School’s Law and Humanities Program for shaping their ideas on legal education. Both were among the 12 law professors selected from some 250 applicants each year to participate in the nine month program, Kalish in



Professors Steve Kalish and John Snowden at their retirement party.

1973-74 and Snowden in 1974-75. (Another Law College professor, Marty Gardner, also attended the program.) The purpose of the program, according to Kalish, was “to bring together a few law professors interested in working on a humanistic level in an effort to establish a nexus between law and society.” Traditional legal education, Kalish believes, did not provide students with a proper balance between the mechanistic and technical aspects of the practice of law and the “broader philosophical and humanistic questions involved in the study of law.”

After his return from Harvard, Kalish’s teaching began to focus on the history of American legal thought, both through his Legal History course and under the rubric of Legal Process. “I have found American history interesting,” he said, and a

good way “to raise fundamental humanistic questions about the role of law in American society.”

In recent years, Kalish’s interest in legal history led him in his teaching and research to focus on the history of the American legal profession and the biographies of important lawyers. The history course he created was unique in American law schools. Ultimately, the emphasis shifted to a study of the life of the famed American trial lawyer Clarence Darrow.

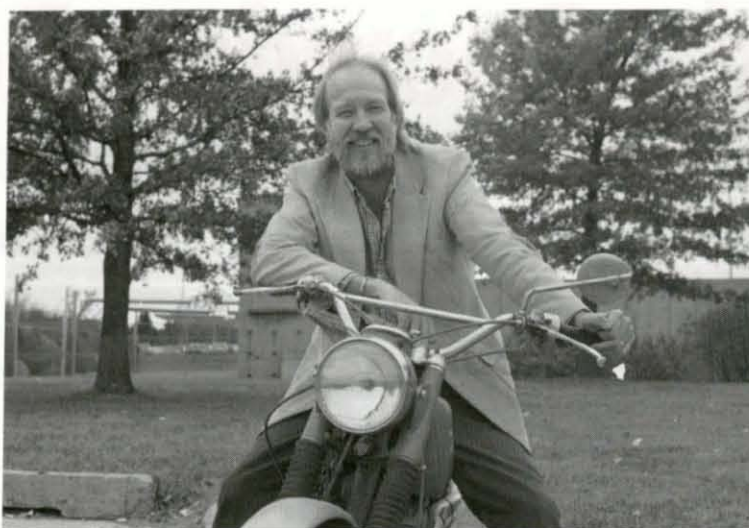
Writing in *The Georgetown Journal of Legal Ethics*, Kalish urged lawyers to not “follow the prescriptive directives of an ethics code in a wooden and categorical way,” but to think reflectively to “professionally balance their duties to a client against their duties to the public and others.” One way that this could be done, he suggested, was “to consider how a lawyer, such as Clarence Darrow, would have acted in the situation. The contemporary lawyer may find a helpful role model or, and this is quite possible with Darrow, she might conclude that he offers no useful

guidance. Regardless, the comparative analysis might help her in her present dilemma.”

Kalish’s interest in ethical issues led to his being named the director of the University’s Center for the Teaching and Study of Applied Ethics. The center looked at ethics across the professions and sponsored summer seminars co-taught by Kalish and philosophy professor Robert Audi.

The greatest impact the year at Harvard had on Snowden was his “indoctrination into Critical Legal Studies.” He sat in on classes taught by Roberto Unger. Unger, Morton Horowitz and Duncan Kennedy espoused a view of the law that, Snowden said, “fit with my political views of the world.” Critical Legal Studies argues that law is neither neutral nor value free and is inseparable from politics. According to Snowden, Critical Legal Studies argues that “the law reflects real world political conditions” and that “thinking like a lawyer” isn’t possible because “there isn’t any pure legal thought; all legal thought is infected with social thought, particularly the social thought of those who have the most.” One goal of his teaching was to try to show his students that “the belief that law is neutral is only something the law and lawyers tell the world to shield themselves from blame.”

Another area that has fascinated Snowden is Native American Law, a course he took over when his good friend Professor Jim Lake retired. One day he asked Lake what was the most important thing about the course, and Lake answered with a chuckle, “Try to finish the book.” Of course, said



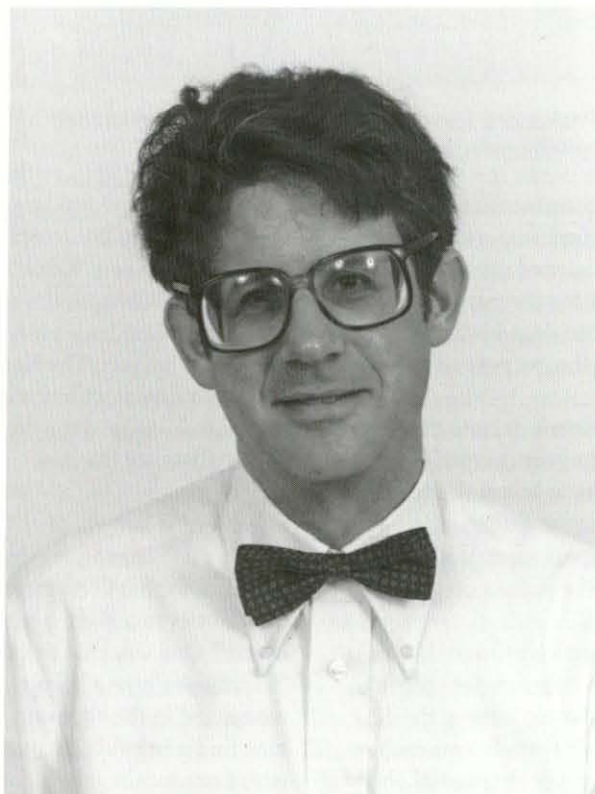
Snowden, “I’ve never finished the book, and I don’t think he ever finished the book, and that’s really the secret of legal education – the book never really gets finished.” A highlight of the course, which Snowden continues to teach at the Law College in his retirement, is the annual class field trip to Winnebago and Macy, which gives the class the

opportunity to meet with tribal judges, members of the tribal councils, professors at Little Priest College and the Bureau of Indian Affairs office.

In addition to their participation in the Harvard Law and Humanities program, Kalish and Snowden share another learning experience – they both taught at the Cambridge Summer Session at Downing College at Cambridge University in the United Kingdom. In 2002, the first year the Law College co-sponsored the foreign study program, Kalish taught Comparative Legal Professions:

The United States and England. Snowden spent his last months “as an actual faculty member” teaching Comparative Free Speech at Cambridge in what was his first trip to Europe. He promises it will not be his last as he and his wife are planning a European motorcycle tour next spring.

Despite the similarities that marked their teaching careers, Kalish and Snowden came to the College of Law by different routes. Kalish received both his undergraduate and law degrees from Harvard University. After his graduation from law school, he clerked for the Second Circuit for a year, then joined a Los Angeles law firm where he practiced corporate, tax and securities law.



Subsequently he worked for the Western Center on Law and Poverty where he specialized in housing and school law. He then turned to law teaching because "I was always interested in ideas. As I drifted from private law practice to legal aid, it was, in part, a political statement, and an effort to get closer to dealing with ideas and ideals."

By coming to Nebraska, Kalish was returning to his Midwest roots – he grew up in St. Louis. Even though he was not impressed with the aging facility on the City Campus, he found the faculty and students stimulating. He was a regular at the faculty lunchtime debates where he would take what some might consider outlandish positions "merely for the fun of arguing about them." His teaching career at the Law College began just when women started coming in large numbers, and he enjoyed "the militancy and excitement of so many new faces and attitudes."

Snowden is a native Nebraskan who attended the University and taught high school in Schuyler. The social studies courses he taught and television shows like *The Defenders* piqued his interest in the law. In the summer before he started law school, Snowden was diagnosed with diabetes. He overcame this obstacle, and Dean Henry Grether's comment that he wasn't sure Snowden would make it through law school, to excel as a law student. With the encouragement of his good friends on the faculty, he left behind his ambition to be a criminal defense or civil

rights attorney and turned to law teaching. He rejected an offer to teach at Creighton and accepted a fellowship to teach at the University of Michigan's Legal Writing program. At the conclusion of the one-year fellowship, he almost accepted a law teaching position in Ghana. Then the Law College called and asked him to interview. "Thirty-three wonderful years" followed. "I have a lot of great memories with my colleagues," Snowden reminisced. "Probably the best thing about my years here on the faculty is that as a rule we almost always got along."

Upon his retirement, Kalish moved with his wife Suzanne to Seattle, Wash., where one of their three children lives. "I was ready for a new adventure," he said, "and I look forward to reading, playing bridge, visiting family, traveling, learning to play the piano and making new friends." Snowden and his wife Pat moved into a new house in Lincoln where he wants to "enjoy time with my grandchildren, time with my wife, and time with myself." He added, "I have always gravitated toward the idea that laziness is one of the highest virtues."

Even though their presence at the Law College is substantially reduced, the effect of Kalish's and Snowden's teaching will continue for the many law students they have taught over the years. After all, "the book never really gets finished." ■

Henderson Leaves for Position with County Attorney's Office



Alicia Henderson, '86, has left her position as associate clinical professor and director of the Criminal Clinic Law Program at the College of Law to become chief deputy of the Juvenile Division of the Lancaster County Attorney's Office. She replaces Jodi Nelson, '87, who had been appointed Lancaster County district judge.

Calling her decision to leave the Law College "a very difficult one to make" because "I am very passionate about clinical education and the Criminal Clinic," Henderson explained, "once in a blue moon, an opportunity comes by that a person just cannot pass up." Henderson said that she has always "cared very deeply" about cases involving children and that in her new position, "I will have the opportunity of a lifetime to help shape child protection policies in ways that hopefully will make a direct positive impact on children's lives."

Henderson joined the faculty in 1990 as a part time instructor in the Criminal Clinic and was named the clinic's director in 1996. "Alicia has played a major role in the continued development of the Criminal Clinic, one of the few prosecution clinics in the country," said Dean Steve Willborn. "She was the first person in her position to be granted tenure, and she will be greatly missed."

Interdisciplinary Perspectives on Multidisciplinary Practice

BY SUSAN POSER

ASSOCIATE PROFESSOR OF LAW AND DIRECTOR UNL CENTER FOR THE TEACHING & STUDY OF APPLIED ETHICS

In keeping with a College of Law tradition, the College celebrated Prof. Susan Poser's receiving tenure and promotion to associate professor of law by inviting her to give a lecture based on an aspect of her research. This article is an abbreviated version of that lecture, which Poser delivered on October 28, 2004.

Imagine the following. After practicing for a few years, a divorce lawyer realizes that her clients often make mistakes during their divorce negotiations that they later regret. Imagine that sometimes the mistake is made by the wife who, for reasons of guilt and avoidance, does not ask for enough alimony or child support. Sometimes the mistake is by the husband who, for similar reasons, offers

too much and allows himself to be manipulated into child custody arrangements that he later regrets.

Imagine that this lawyer concludes that part of the reason that this happens is that the lawyer herself does not always understand the psychological state of her clients, and does not always feel confident counseling her clients about non-legal issues. She sometimes refers her clients to psychologists and financial consultants, but she is often surprised at how their advice sometimes promotes, rather than prevents, the mistakes her clients make.

So our lawyer gets a good idea. She contacts a clinical psychologist and financial planner and asks them to join her in her practice. They agree and form a partnership that will offer one-stop shopping at their firm. They will gather around the table together and treat the client as a whole person, each giving advice in the context of the client's whole situation and in light of the advice from each other. They pool their resources and overhead to keep their billing affordable.

This type of arrangement, known as multidisciplinary practice, or MDP, would violate the ethics rules in every state because they involve a lawyer forming a partnership with a non-lawyer when only one of the purposes of the partnership is the practice of law. The ethics rules for lawyers prohibit fee sharing between lawyers and non-lawyers because there is a fear that partnering with non-lawyers who are not regulated by the rules that govern lawyers' ethics will lead to irresolvable conflicts of interest, breaches of confidentiality and incursions into the independent judgment of lawyers in giving legal advice.

The debate about MDPs was propelled into the spotlight in 1998 when the president



Dean Steve Willborn presents Susan Poser with a leather bound copy of her tenure research.

of the American Bar Association appointed a commission to study the issue. At that time, the large accounting firms were actively hiring lawyers to serve as “tax consultants” and “counselors” to their accounting clients. Arguably, lawyers working for accountants violate the rule against fee sharing between lawyers and nonlawyers, but the accounting firms got around this by claiming that their lawyers were “practicing tax” not “practicing law.”

This arrangement enabled the accounting firms to offer one-stop shopping to corporations. Accounting firms thus began to compete with the tax practice of large law firms, yet those law firms were prohibited by the rules against fee sharing from responding in kind.

After hearing testimony from lawyers around the country, the MDP Commission recommended that the ethics rules be changed to allow lawyers to form MDPs with non-lawyers. These recommendations were rejected by the ABA House of Delegates in 2000. The stated reason for rejecting the recommendations of its own commission was the fear that the non-lawyers in the MDP would inappropriately influence lawyers’ professional judgment and independence by exerting pressure on lawyers to eschew their best legal judgment in favor of the bottom line. There was also the concern that the complex conflicts of interests that would arise in business organizations with thousands of employees offering varying services, both legal and non-legal, would interfere with the lawyers’ duty of undivided loyalty.

Despite the recent rejection of MDPs, almost all of the state bar associations have considered this issue on their own, and several state bar committees proposed changes to allow for MDPs. Many state bars have indicated that they would be willing to revisit the issue in the future, and some

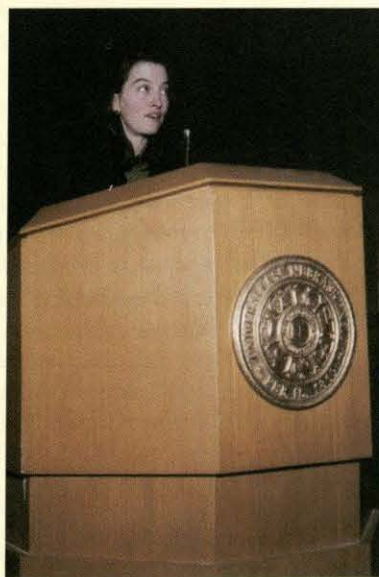
states, like New York, and the District of Columbia, have liberalized their rules a bit.

I believe there is a strong argument for permitting MDPs on the small scale, sometimes referred to as “Main Street MDPs,” like the ones I described, and I have argued for this in an article, “Main Street Multidisciplinary Practice Firms: Laboratories for the Future,” 37 *Michigan Journal of Law Reform* 95 (2003).

There is an interesting aspect of MDPs that has not been explored and that is the connection between the notion of multidisciplinary law practice, and the interdisciplinary approach to understanding and reforming the law. This is the connection between *practicing* law with professionals from other disciplines (like psychologists and economists) and *studying* law from the perspective of other disciplines (like psychology and economics), which is the mainstay of the Law and Society Movement.

The Law and Society Movement came of age about 50 years ago with the formation of the Law and Society Association, and since then there has been tremendous growth in associations and journals that support and publish scholarship devoted to the interdisciplinary study of law.

Lawrence Friedman has defined the Law and Society Movement as “the scholarly enterprise that explains or describes legal phenomena in social terms.”¹ The interdisciplinary approach to understanding the law is the study of law as it actually works by examining its effects in social context. Scientific methods, in the form of sociology, psychology, etc., are brought to bear in the attempt to describe the social phenomenon called law and how it operates in society. Thus, the Law and Society Movement with its social science, interdisciplinary approach, is first





Susan Poser and her family: (left to right) father Norman Poser, stepmother Judy Cohn, daughters Sarah and Eve, mother Miriam Poser and husband Steve DiMagno.

and foremost an empirical undertaking.

But there is also a reformist spirit to the Law and Society Movement that goes back to the sociological jurisprudence and legal realism movements. Included among its founders was Nebraska's own Roscoe Pound, who distinguished between "the law in books and the law in action,"² and Jerome Frank, who believed legal realism would make law "more responsive to social needs."³

Nonet and Selznick argued for law to be responsive and purposive – that is, scholars should identify the overarching purpose of legal rules and then, using knowledge of how the law operates in social contexts, reform the legal institutions to further those purposes.

But the interdisciplinary study of law and legal institutions, whatever its success in collecting law-related data and analyzing the law's impact on society, has not been particularly successful in influencing lawyers and judges. There are lots of theories for why the social sciences have had limited success in influencing the development of the law. Legal training does not produce lawyers who are also competent consumers of social science research, and most judges have had limited exposure to social science. Neither are trained to interpret the data created by social science methodology. This has arguably been the greatest barrier to the reformist aspect of the Law and Society Movement.

It has even been suggested that because of their training in the adversarial method, lawyers are particularly ill-equipped to handle social science data. When lawyers get their hands on data, they immediately figure out how

best to use it to their advantage, rather than looking to it to help them understand problems and form their opinions.

What then is the connection between the notion of main street multidisciplinary practice firms where lawyers and other professionals can partner to offer holistic advice to their clients, and the law and society notion of reforming the law by way of insights gleaned from empirical, social science research? Why should those who advocate for interdisciplinary approaches to the study and reform of the law and legal institutions pay more attention to the idea of multidisciplinary practice?

Perhaps "main street" multidisciplinary practice would lead to the realization of some of the reformist goals of the Law and Society Movement. Main street MDPs offer a new and different way to incorporate the social sciences into the law, albeit indirectly. If the reformist spirit of the interdisciplinary study is a concern that legal results be more fair and just by taking into account social realities, MDPs may be a way

to get there, at least in the non-litigation, counseling context.

MDPs would allow lawyers to be actively involved in an overall, interdisciplinary approach to their clients' particular legal problems by teaming up with other professionals to offer coordinated services to their clients. While social scientists might be able to tell us how legal rules/decisions are influenced by extra-legal phenomena, main street MDPs acknowledge those phenomena in clients' individual lives and facilitate a process by which decisions about legal rights and obligations can be made in the explicit context of those phenomena. It is through action, rather than study, that some of the goals of the Law and Society Movement can be realized. Thus, *doing* interdisciplinary law would immerse the lawyer in the context in which the law operates and force the lawyer to recognize and reckon with, the effect of the law on the client's life.

Multidisciplinary practice could move us toward a long elusive goal of advocates of interdisciplinary study of law by bringing non-legal realities to the attention of lawyers, judges and other decision-makers in individual cases, and by changing the nature of legal counseling. In this way, the law-in-action would begin to approach what Nonet and Selznick considered the most advanced stage of law – when it becomes truly responsive to society's needs and interests. ■

¹ Lawrence M. Friedman, "The Law and Society Movement," 38 *Stanford Law Review* 763 (1986).

² Alan Hunt, *The Sociological Movement in Law*. Phila: Temple Univ. Press 1978, at 15.

³ Jerome Frank, "Mr. Justice Holmes and Non-Euclidian Legal Thinking," 17 *Cornell Law Quarterly* 568,586 (1932), quoted in Philippe Nonet & Philip Selznick, *Law and Society in Transition: Toward Responsive Law*, N.Y.: Octagon 1978, at 73.

Faculty Notes



C. Steven Bradford
Earl Dunlap
Distinguished
Professor of Law

■ Prof. Steve Bradford spoke on "Computer-Assisted Instruction in the Classroom"

at the ABA Section of Business Law meeting in Tampa, Fla.



Susan C. Franck
Assistant Professor
of Law

■ Prof. Susan Franck spoke at the Columbia University School of Law on "Global Legal Problems," and at the University of

Missouri-Columbia School of Law on foreign investment and dispute resolution. Her article on borrowing statutes, "Borrowing Help? Using Conflicts of Law to Aid Clients and Lawyers," was published in the *Nebraska Lawyer* and led to her testimony before the Nebraska legislature on a bill to adopt the Uniform Conflict of Laws Act. She has published, "The Nature and Enforcement of Investor Rights Under Investment Treaties: Do Investment Treaties Have a Bright Future?," 12 *U.C. Davis Journal of International Law and Policy* 47; "International Decisions: *Ocidental Exploration & Production Co. v. The Republic of Ecuador*," 99 *American Journal of International Law* 675; and "The Role of International Arbitrators," 12 *ILSA Journal of International and Comparative Law* 499, which was reprinted in *Institute of the Chartered Financial Analysts of India Journal of Alternative Dispute Resolution*. This summer, Franck chaired a panel at the Southeastern Association of Law Schools on e-commerce and on-line contracts and lectured at the University of London on international investment law.

1996 Grad Matt Novak Returns As Schmid Reference Librarian

Ten years after Matt Novak, '96, graduated from the College of Law he is back on East Campus at the Schmid Law Library as an assistant professor and reference librarian. "I was excited by the opportunity to return to the Law College, and coming back in such a different role wasn't awkward at all," he said.

After growing up in Bellevue and attending UNL, Novak applied to the Law College because of the broad education it offered. As a student he particularly enjoyed environmental law courses, but his job clerking for the Lancaster County District Court judges, working primarily on criminal matters, led him to take a position with the Missouri Public Defender's office. "I thought being a public defender was a great opportunity to do good and practice in an area that I was interested in," he said.

He worked in a number of offices throughout the state, from small towns to Kansas City and St. Louis, and carried a large caseload of 120 or more cases. "It was very intense," he recalled.

"What I enjoyed most about working as a public defender was working with the clients. Helping them understand the legal process was especially rewarding. The job had social work aspects as well as teaching aspects."



Novak was not the only one doing the teaching. He learned from his clients, too. "One gentleman who I went to visit in jail told me he wanted a continuance on his case and I said, 'I don't think that's going to happen.' He replied, 'Trust me; I'll make sure it happens. Just be in court tomorrow.' The next day my client started cursing at the judge and everybody else in the courtroom. Of course, he was eventually found in contempt and was taken out of the courtroom. But he got his continuance!" Novak was relieved that his client did not use the tactic that he subsequently learned some other clients wanting a continuance have employed – they slugged their attorneys.

Novak's desire to be in an academic environment led him to law librarianship. He received his library degree through a distance learning program offered by the University of Missouri and soon found himself back at the Law College. "I've enjoyed working with the students and with people from the community who come in looking for assistance," he said. "It reminds me of my public defender days. People come in and are confused; they're facing a big legal issue, they're upset and they need help."

In staffing the reference desk, Novak sees himself as being part of the "public face" of the Law College. "I have a lot of bartender-conversations with students. I not only answer their reference questions, but I also get to know them on a personal level."



Alan H. Frank
Professor of Law

■ Prof. Alan Frank was appointed by the Nebraska Supreme Court to serve a three-year term on the State Dispute Resolution Advisory Council. The council advises the Office of Dispute Resolution (ODR) on the development of mediation in

Nebraska. He is also a member of the ADR Court Powers Task Force and the planning committee for the NCLE seminar, "Lawyer Advocacy in ADR and Mediation." He has been approved to be a lead trainer for the ODR Basic Mediation Training. Frank is also serving on the subcommittee on Children in the District Courts, part of the Supreme Court Commission on Children in the Courts, which was created to study appropriate steps

for the judicial system to undertake to insure that the court system is as responsive as possible to children who interact with or are directly affected by the courts.



Colleen E. Medill
Professor of Law

■ Prof. Colleen Medill's article, "Transforming the Role of the Social Security Administration," was accepted for publication by the *Cornell Law Review*. She also published "Are Constructive Trusts or Equitable Liens Available as Equitable Remedies Under Section

502(a)(3) of ERISA?," a review of the Supreme Court's forthcoming decision in *Sereboff v. Mid-Atlantic Medical Services, Inc.*, in the *Supreme Court Preview*. Medill was an invited speaker at the Fourth Annual Employee Benefits

In Memoriam

The College of Law extends its deepest condolences to the families and friends of the following former faculty members:

■ **Caleb Foote**, an associate professor from 1954 to 1956, who taught Criminal Law, Family Law and Torts, died on March 4, 2006, in Santa Rosa, Calif. He was 88. Foote graduated from Harvard University in 1939 and received a Master's degree in economics in 1941. He received his law degree from the University of Pennsylvania Law School in 1953, where he was managing editor of the law review.

While at the Law College, he and Prof. Jim Lake assisted with the appeal by a Native American who had been sentenced to death for killing a state trooper. They were able to convince a federal judge to reverse the conviction due to the incompetence of the man's counsel.

In an interview several years ago with Prof. Samuel Walker of the Department of Criminal Justice at UNO, Foote explained that the appeal angered many people in the state and some began inquiring into Foote's background. They learned that he was a conscientious objector who had been convicted of refusing to cooperate with the draft during World War II and had served time in prison for that offense. The Law College had been aware of this and stood up to pressures to fire Foote. Shortly thereafter, however, he left for a position at the University of Pennsylvania Law School.

He became a leader in bail reform and, in 1966, his book, *Studies on Bail*, was published. He argued that the bail system was biased against the poor and an unfair burden on falsely accused defendants.

■ **Silas R. Lyman**, an associate professor of law from 1969 until 1973, who taught Criminal Law, Criminal Procedure, Evidence and Trial Practice, died on October 4, 2004, at age 72. In 1973, Lyman joined the faculty at Oklahoma City University and served as acting dean during the 1976-77 academic year. He retired in 1997. He graduated from the University of Wyoming in 1958 as a geology major and in 1960 received his law degree from Wyoming, where he was editor of the *Wyoming Law Journal*. In 1969, he earned his LL.M. from the University of Wisconsin School of Law.

■ **Paul A. Phillips**, an associate professor of law from 1954 to 1957, who taught tax courses and Accounting for Lawyers, died March 29, 2005, in Palo Alto, Calif. He was 88. Phillips graduated from Princeton University in 1938 and received his law degree from Columbia University School of Law in 1947. He then acquired a Master's degree in taxation from the New York University School of Law. In 1957, he moved to Albuquerque, N.M., where he became involved in civil rights litigation. He helped convince the U.S. Tenth Circuit Court of Appeals that the official seal of Bernalillo County – which then depicted a Latin cross and the Spanish phrase, "Con Esta Vencemos" ("With This We Conquer") – was unconstitutional.

Symposium, which was hosted by The John Marshall Law School in Chicago. Medill has been named as the Cline Williams Research Chair at the College of Law for 2006-2007.



Richard E. Moberly
Assistant Professor of Law

■ Prof. Richard Moberly will publish his most recent article, "Sarbanes-Oxley's Structural Model to Encourage Corporate Whistleblowers," in the November 2006 volume of the *BYU Law Review*. He is currently working on an empirical study of the anti-retaliation provisions of the Sarbanes-Oxley Act of 2002. In

February 2006, Moberly was voted professor of the year by the Law College's upperclass students.



Glenda J. Pierce
Associate Dean

■ Associate Dean Glenda Pierce has received the Warren K. Urbom Mentor Award from the Robert Van Pelt American Inn of Court. The award was in recognition of her commitment to promoting ethics, civility, professionalism and legal skills as a mentor.



Susan Poser
Associate Professor of Law

■ Prof. Susan Poser was awarded the Shining Light Award by the Nebraska State Bar Foundation. She has lectured about research ethics across the campus to engineering, chemistry and biochemistry graduate students. She served for the second time as a proposal reviewer and panel member for the Ethics Committee in Science and Engineering Program at the National Science Foundation.



Robert F. Schopp
Robert J. Kutak Professor of Law and Psychology

■ Prof. Bob Schopp has published "Two-edged Swords, Dangerousness, and Expert Testimony in Capitol Sentencing" in the *Law and Psychology Review* and "Involuntary Treatment and Competence to Proceed in the Criminal Process: Capital and

Noncapital Cases" in *Behavioral Science and the Law*. He presented "Expert Testimony Relevant to Risk, Desert and Character for the Purpose of Capital Sentencing" to

the Annual Conference of the American Psychology-Law Society in St. Petersburg, Fla., and "So Sick He Deserves It: Desert, Dangerousness and Character in the Context of Capital Sentencing" to the Northwest Philosophy Conference in Pullman, Wash.



Steven L. Willborn
Dean and Richard C. and Catherine Stuart Schmoker Professor of Law

■ Dean Steve Willborn published a book chapter with Stewart Schwab, dean of the Cornell Law School, on the history and importance of *Hazelwood School District v. United States*, one of the leading cases on employment discrimination. The chapter, "The

Story of Hazelwood: Employment Discrimination by the Numbers," is in *Employment Discrimination Stories*, edited by Joel William Friedman and published by Foundation Press. He has also presented papers at a conference on privacy in employment at Louisiana State University; on academic thinking about employee benefits at a conference at the Chicago-Kent Law School; and on private law production by groups such as the International Labor Organization, the American Law Institute and the Uniform Law Commission at a meeting of the International Society of Labor Law and Social Security in Chicago.



Sandra B. Zellmer
Professor of Law

■ Prof. Sandi Zellmer co-authored the casebook, *Natural Resources Law*, published by Thomson/West. She wrote "A Tale of Two Imperiled Rivers: From the Muddy Missouri to the Mighty Mississippi," in the *Florida Environmental and Ecology Law Review*.

The article was based on a presentation of the same name at the University of Florida Levin College of Law. She also presented "A New Corps of Discovery for Missouri River Management: Collaborating in the Current" to the Eighth Biennial River Management Society Symposium and the Tenth Annual Missouri River Natural Resources Conference. She was also planning co-chair and moderator at "Adaptive Management for Resilient Water Resources" at the Third Annual UNL Water Law, Policy and Science Conference in Lincoln. Zellmer was awarded the College of Law Hevelone Research Chair for 2006-2007. She was also invited to join the following organizations: The Resilience Alliance, the World Conservation Union Commission on Environmental Law and the Center for Progressive Reform. She attended the Resilience Alliance workshop in Kruger Park, South Africa, in April 2006.

Development Report

What Will Your Legacy Be?

The generosity of the University of Nebraska College of Law alumni never ceases to amaze me. I consistently run across alumni who attribute their professional (and sometimes personal) success to the education they received while in law school. Many of those same people are starting to think about leaving a legacy but have questions about their options. To help, I will answer one of the most frequently asked questions:

Question: How do I establish a scholarship in my name or to honor the memory of someone I respected or loved?

Answer: There are two types of scholarship funds that can be established: expendable and endowed. Both are equally important and provide much needed financial support to College of Law students, but are very different in the way the money is invested or not invested.



An expendable scholarship fund can be established with a minimum donation. The money donated is then "spent" or awarded each year to a student or students in the form of a scholarship. Some individuals choose to establish this type of fund as a way to give annual gifts through a scholarship in their name or as a memorial. The advantage of an expendable fund is that it provides immediate support for the College of Law. Donors will often ask the College of Law to only spend a portion of the fund to allow it to grow to an endowed fund.

A fund can become endowed once it reaches a minimum of \$10,000. Your gift is invested and only the annual investment income will be available for use by the College. The net income earned annually from the investment is used for the purpose of the fund. The advantage of an endowed fund is that it grows over time, providing increasing support for the College while leaving your legacy for years to come.

By discussing your options with me in person you will be able to review your wishes and establish criteria for the fund based upon your philanthropic goals.

Each year you will receive a report from the University of Nebraska Foundation with information about your fund and the name(s) of the scholarship recipients. You will also receive a thank you letter from the student.

Competition among law schools to attract and recruit top students is stronger than ever. Your scholarship support gives the College of Law a competitive edge while giving students valuable financial support to help offset the rising costs of tuition.

So I ask, what will your legacy be?

A handwritten signature in black ink that reads "Angie Hohensee".

Angie Hohensee
Director of Development
(402) 458-1192
ahohensee@nufoundation.org

Memorial gift reminder:
Please make memorial gifts payable
to the University of Nebraska Foundation
to benefit the College of Law.

Love for International Business Leads to Morrison Scholarship

Todd Morrison, '84, lived most of his first ten years in Montana and spent the next 24 years in Nebraska, graduating from the University's College of Business Administration and the College of Law. Now, however, he lives in a converted early 19th Century warehouse overlooking a marina in the Canary Wharf area on London's East End and his career has taken him to more than 50 countries around the world.

Morrison has been able to combine his love for international business and his loyalty to his alma mater by establishing the Todd A. Morrison International Student Scholarship with the University of Nebraska Foundation. Through his travels around the world, Morrison has come to understand the value of living and learning outside of the United States, and his scholarship reflects his belief that students should both be encouraged and rewarded for pursuing significant interactions with people of different cultures. Law College students who have lived outside of the U.S. for four or more years will receive first priority to receive the Morrison Scholarship. Second priority will be given to those students who have lived outside the U.S. for three years.

It was his interest in business that led Morrison to the Law College. "The legal department of a corporation typically reports to the top level of management, which is where I wanted to spend my time – dealing with issues of strategic importance to the company," he said. He has more than met this goal. In his legal career, Morrison has served on the management committees of several companies providing legal advice on how best to proceed given the circumstances.

His career path began as corporate attorney for Applied Communications, Inc. He then worked for Mutual of Omaha where he was the youngest corporate officer in the company's history. Subsequently he served



as general counsel for two of the major business units of First Data Corporation. He left First Data to pursue a degree in International Management at Thunderbird, The Garvin School of International Management in Glendale, Ariz., consistently rated as the number one international business school in the U.S.

He then worked for MoneyGram, as legal counsel for its international business based in London. He dealt primarily with contracts, compliance issues and marketing approval. "Money laundering," he said, "was a major concern." He later moved to the company's business side as senior regional director for Central, Northern and Eastern Europe, the Middle East and the Indian subcontinent.

His work on both the legal and business-oriented sides focused on international

contractual relationships with local partners in the countries where MoneyGram does business. Iceland, Russia, Belarus, Ukraine, India, Egypt, Lebanon, Poland, Czech Republic, Malta, Thailand and Hong Kong are some of the places he has gone. "To be successful," Morrison said, "it is necessary to understand the local culture and customs, which adds an interesting dimension to the usual process of doing business."

Morrison is aware of the uncertainties of living and traveling abroad in the current times. "I try not to look or act like a tourist, and I must succeed as I'm frequently stopped and asked for directions," he explained. Nonetheless he has had his share of adventures. He attended a demonstration of firearms used by the British army, which included having snipers shoot various caliber shells past those in attendance so that they could "hear the difference and hopefully recognize the direction of the fire so we could run away from (rather than toward) the fire in a real sniper situation." He has met with a Bahraini



Egypt is but one of the countries where Todd Morrison has done business.

princess, who was the sister of the queen, and been interviewed by Al-Jazeera. While in Moscow, he narrowly avoided a police raid.

Things were tamer in his days at the Law College. Morrison cherishes the friendships he made at the College, “a challenge in the competitive law school environment, but well worth the effort.” While at the Law College he served as president of the Student Bar Association. “I take credit for starting the tradition of rubbing the nose on Roscoe Pound’s bust for good luck,” he said proudly.

What Morrison learned at the Law College has been invaluable in his career. “First and foremost was the ability to listen,” he said. “Nothing is more important than listening to what the other person is looking for, so you can try to develop a common ground from which to work.” He added,

“Second is thoroughness. You can never be too prepared. It is always good fun when a potential customer asks for something rather obtuse and you can respond by saying, ‘I have that information right here.’ Anticipating what may be important or of interest to the people you are meeting with is of utmost importance.”

Also important to Morrison is his collection of vintage cars including a 1959 Jaguar, a 1966 Aston Martin and a 1995 Morgan. “Given all these British cars, some people think I’m an Anglophile,” he said, “I suspect they are right.” He drives the cars in road rallies, charitable events with the proceeds going

to charities supported by the state highway patrol. The rallies, he said, “are a delightful way to meet some fantastic and interesting people and come in contact with some incredible motorcars.” ■



Morrison’s “Husker” Jaguar

AlumNotes

1890

■ On April 20, 2006, the Military and Naval Science Building at the University of Nebraska-Lincoln was dedicated the John J. Pershing Military and Naval Science Building. The building was renamed in honor of one of the University's most distinguished graduates. In addition to earning his law degree, **John J. Pershing, 1893**, was a professor of military science and tactics at the University from 1891 to 1895. In 1917, Pershing became commander of the army, the first to have that rank since George Washington. His memoir, *My Experiences in the World War*, published in 1931, won the Pulitzer Prize in history.

1920

■ In March 2006, in honor of Women's History Month, New York Attorney General Eliot Spitzer introduced a film, "Raising the Bar: Pioneering Women Lawyers in the New York State Attorney General's Office," which chronicled the struggle and triumphs of women attorneys representing the state of New York, beginning with the first woman deputy attorney general hired in 1923. One of these attorneys was **Emmeline E. Ferris Haack, '27**. Haack was the only woman in her College of Law graduating class. After practicing for the New York law firm of Goldstein & Goldstein, where her brother practiced law, she joined the Attorney General's office in 1930 where she handled labor and workers' compensation matters. Haack retired from the office in 1962 and subsequently practiced in Colorado for a number of years. She died in St. Louis in 1992.

1940

■ **Royce N. Harper, '49**, Lincoln, has retired after nearly 40 years as assistant Nebraska attorney general, first working with the Department of Roads and later with the Department of Social Services.

1950

■ **Harris Snyder, '52**, along with his wife Iris, was grand marshal of the Crawford 4th of July parade.

■ **Donald Pederson, '54**, North Platte, retired from the Nebraska Legislature after 10 years of service. Pederson was awarded the 2005 Nebraska Preservation Award by the Nebraska State Historical Society. He was cited for his work in the Nebraska Unicameral on legislation encouraging historic preservation projects. He was also awarded the Frank Morrison Award by the Nebraska Travel Association. The award is given to an elected official who has been a strong proponent of tourism and supporter of the travel industry.

■ **Duane Acklie, '55**, was named an alternative U.S. representative to the United Nations General Assembly by the White House. He attends UN meetings and advises Ambassador John Bolton on how the American public views issues. He was also appointed by the University of Nebraska Board of Regents to the Medical Center board of directors.

■ **James Hewitt, '56**, was awarded the George H. Turner Award at the 2005 Annual Meeting of the Nebraska State Bar Association. The Turner Award recognizes a member of the bar who demonstrates unusual effort in furthering public understanding of the legal system, the administration

of justice and confidence in the legal profession. He was also elected to the Nebraska State Historical Society board of trustees. Hewitt is the former general counsel at Nebco, Inc., and an adjunct on the history faculty at Nebraska Wesleyan University.

■ North Platte attorney **Robert E. Roeder, '56**, was honored with a retirement party recognizing his 50 years of practicing law in Lincoln County.

■ **Jerrold Strasheim, '57**, of Baird Holm in Omaha, has been recognized in *Chambers USA: America's Leading Lawyers for Business* in the category of corporate/M & A.

■ **Deryl F. Hamann, '58**, was named to the Ak-Sar-Ben Court of Honor for excellence in business and industry. Hamann is chair and CEO of Great Western Bancorporation of Omaha and is senior counsel to Baird, Holm, McEachen, Pedersen, Hamann & Strasheim.

1960

■ **Sam Jensen, '61**, Omaha, became counsel to Berens & Tate. He continues to work in the firm's labor relations, employment litigation and human resource management department.

■ **Jerry Schleich, '62**, was inducted into the Nebraska Real Estate Hall of Fame in April 2006 for his contributions to real estate. From 1962 to 1992, Schleich owned and managed the Austin Realty Group in Lincoln. Schleich died in 2005.

■ **Richard E. Shugrue, '62**, received the Commitment to Judicial Branch Education Award presented by the Nebraska Supreme Court at the annual judicial dinner for his dedication to the judges' annual Current Issues program.

Goossen Recreates Broadcasts From Outlaw Radio Station XERF



Levi Goossen, '62, practices law and is a municipal judge in Newton, Kan. He also owns his own business, NDF Co., which creates software programs that produce court forms and calculate income withholding orders and Kansas continuous wage garnishments for employers. But what he most wants readers of *THE NEBRASKA TRANSCRIPT* to know, especially his classmates, is that he is in the entertainment business.

Goose recreates broadcasts as they were presented on radio station XERF, an outlaw radio station located in Del Rio, Texas, that beamed

its colorful programming from across the border in Mexico. "I do the show in an old time radio format with a mixture of songs, advertising pitches and comedy," he said. "I try to adapt my repertoire to the audience. For one high school reunion I did one segment, the Evening Gospel Hour on XERF, with old time advertising pitches. Then after a 'station break,' I did the XERF Opry show in classic country of the 50s."

According to Goossen, XERF was founded by J. R. Brinkley, "a Kansas quack doctor, to promote his goat gland implant surgery." The station presented an odd mix of gospel and hillbilly music and fundamental Pentecostal preaching, oftentimes laced with fraudulent advertising. The station was the originator of "Pay to Pray" radio ministries. It was a "border blaster" that at one time had as much as one million watts of power, the most powerful transmitter in the world. Said Goossen,

"The people never guessed the shenanigans that were pulled to keep the station on the air, nor the consternation of the FCC and postal officials over the fraud, medical quackery, psychic promotion, violation of postal regulations and extreme behavior by the preachers over the airwaves and through the mails."



Shugrue is a professor at the Creighton University School of Law in Omaha.

■ **Thomas W. Tye II, '62**, was inducted into the Ak-Sar-Ben Foundation Court of Honor at the annual Coronation Ball at the Quest Center in Omaha. Tye is senior partner in the Kearney firm of Tye & Rademacher.

■ **Herbert M. Brugh, '63**, has been appointed a director of Inspiration Mining Corp. in Toronto, Canada.

■ **Thomas H. Dorwart, '64**, Sidney, has retired after 29 years as a Cheyenne County judge.

■ **Morris L. Sinor, '64**, Southlake, Texas, co-authored "Confronting Nomadic Terrorism," 52 *Naval Law Review* 98. Captain Sinor is a retired United States Navy Judge Advocate, who completed his active duty career as legal advisor to the commander in chief, Pacific command. He subsequently worked in international telecommunications law. Sinor was assistant counsel to the Department of Defense Commission on the Beirut International Terrorist Act in 1983.

■ Scottsbluff attorney **Robert P. Chaloupka, '68**, was appointed to the Scotts Bluff Airport Authority board. He is with Chaloupka, Holyoke, Hofmeister, Snyder & Chaloupka.

■ **James A. Beltzer, '69**, has rejoined the Grand Island law firm of Leininger, Smith, Johnson, Baack, Placzek, Steele & Allen after 12 years of practicing in San Francisco, Calif. He practices in the areas of civil litigation, complex business litigation and mediation.

■ **Kermit A. Brasher, '69**, Omaha, retired from the Nebraska Legislature after 12 years of service.

■ **Bernard J. McGinn, '69**, Lincoln, retired after 25 years as a Lancaster County District Court judge. Judge McGinn was honored with the Distinguished Judge for Service to the Judiciary Award by the Nebraska Supreme Court at the annual judicial dinner. The award is "given to a judge

who has distinguished himself or herself through contributions to the improvement of the judicial system; service as a trial judge; or promotion of judicial efficiency." McGinn earned the award for "exemplary judicial temperament."

1970

■ **Howard Hahn, '70**, has been selected as a fellow of the American Bar Foundation. Hahn is with Blackwell Sanders in Omaha.

■ **Steven R. Hutchins, '72**, a partner in the Denver, Colo., firm, Hutchins & Stiff, has become a fellow of the American Bar Foundation.

■ **David Landis, '72**, Lincoln, retired from the Nebraska Legislature after 28 years of service. Landis was presented the Nebraska Democratic Party's Patriots Award by U.S. Senator Ben Nelson, '70.

■ **Wayne J. Mark, '72**, was elected president-elect designate for 2005-2006 by the Nebraska State Bar Association. He is a senior partner with Fraser, Stryker, Meusey, Olson, Boyer & Bloch in Omaha. The hunting incident involving Vice President Dick Cheney led the *Omaha World Herald* to point out that Mark, like Cheney's hunting companion, carries shotgun pellets in his heart due to a hunting accident when he was 17.

■ **James E. Rembolt, '72**, has been elected to the board of directors of the Mediation Center in Lincoln. He is a partner with Rembolt Ludtke in Lincoln.

■ **Richard D. Sievers, '72**, of the Nebraska Court of Appeals was awarded The Distinguished Judge for Service to the Community by the Nebraska Supreme Court at the annual judicial dinner. Judge Sievers is chairperson of the Nebraska Supreme Court Implementation Committee on Pro Se Litigation and has worked since

1999 to design a course of action for the improvement of pro se services in the state.

■ **John J. Battershell, '73**, McCook, retired after 14 years as 11th Judicial District Court judge.

■ **Chris Beutler, '73**, Lincoln, retired from the Nebraska Legislature after 23 years of service. Beutler was presented the Nebraska Democratic Party's Patriots Award by U.S. Senator Ben Nelson, '70.

■ **Ken Bunker, '73**, retired after a 28-year career as Omaha deputy city attorney where he dealt with land use and community redevelopment issues. He was the principal architect of Nebraska's Tax Increment Financing statute. He has joined Slusky Law in Omaha. Bunker was also elected to the Nebraska State Historical Society Board of Trustees.

■ **Wayne L. Garrison, '73**, of the Garrison & Garrison law firm in Nelson, has been named Nuckolls County public defender.

■ **W.V. Bernie Siebert, '73**, was named chairman of the ABA's Committee on Development of Law Under the National Labor Relations Act at the ABA's annual meeting in Chicago. He has been an assistant editor and now will be editor of the treatise, *The Developing Labor Law*, the fifth edition of which will be published in 2006. He is the co-chair of the Practice and Procedure Committee of Region 27 of the National Labor Relations Board. He was elected a fellow of the College of Labor and Employment Lawyers in 1996 and has been chairman of the 10th Circuit Credentials Committee for the College since 2001. He is a partner with Sherman & Howard in Denver, Colo.

■ **Michael J. Tavlin, '73**, Lincoln, is a member of the board of directors of the Sam Schmidt Paralysis Foundation in Speedway, Ind.

■ **Kirk Blecha, '74**, of Baird Holm in Omaha, has been recognized in

Chambers USA: America's Leading Lawyers for Business in the category of litigation.

■ **William G. Dittrock, '74**, Omaha, is the president of the Nebraska State Bar Association for the 2005-2006 term. Dittrock has practiced law at Barid Holm since 1976. He also has been recognized in *Chambers USA: America's Leading Lawyers for Business* in the category of litigation.

■ The Nebraska State Bar Foundation presented **John V. Hendry, '74**, chief justice of the Nebraska Supreme Court, with its Public Service Award at its annual Fellows Dinner. The award is given to a lawyer or judge who has been or is currently employed with the local, state or federal government in Nebraska or to a Nebraska lawyer in governmental employment outside the state for outstanding service in the performance of duty. Chief Justice Hendry was recognized for his activities in educating and communicating with the public. Hendry helped to expand the reach of Law Day observations and celebrations throughout the state including his support of the Bar Foundation's Law Day Essay Contest and Law Day Job Shadowing programs and his leadership in implementing activities and observations for Constitution Day. He was also instrumental in implementing the Judicial Branch Web Site with links specifically designed for the public. Hendry was also named one of the leading judges in America by *Lawdragon 500*, a guide to the 500 best public and private judges in the United States.

■ The Omaha Bar Association presented Public Service Awards to **Steven E. Achelpohl, '75**, and his wife Sara for service to the community and the law. Steve Achelpohl has his own law firm with a practice primarily related to business litigation and the defense of white collar criminal cases. He is also chairman of the Nebraska Democratic Party.

■ **David R. Buntain, '75**, has been elected president of the Lincoln Symphony Orchestra Association. Buntain is with Cline, Williams, Wright, Johnson & Oldfather.

■ **Brian K. Ridenour, '75**, has been named vice president and assistant general counsel of Fiserv, Inc., the parent company of Information Technology, Inc.

■ **Thomas A. Wurtz, '75**, president of the Metropolitan Utilities District in Omaha, was elected to the Keep Omaha Beautiful, Inc., board of directors.

■ **Alan L. Brodbeck, '76**, O'Neill, was presented the Award of Special Merit at the 2005 Annual Meeting of the Nebraska State Bar Association. The award recognizes an individual or organization for services advancing the legal profession, the administration of justice and the public interest. Judge Brodbeck is a county court judge for Nebraska's Eighth Judicial District.

■ The Nebraska State Bar Foundation presented **Karen B. Flowers, '76**, with its Legal Pioneer Award at its annual Fellows Dinner. The award is given to honor past or current accomplishments of a lawyer or judge who makes innovative contributions to the improvement of justice. Flowers, a judge of the Lancaster County District Court, was credited for her leadership and supervision of the first drug court in Lancaster County. Among Judge Flowers' other contributions are teaching the domestic relations orientation for new judges, teaching at continuing legal education seminars, serving as president of the Lincoln Chapter of the American Inns of Court and serving as chair of the Bar Association's House of Delegates.

■ **Thomas Hagel, '76**, a professor at the University of Dayton School of Law, presented "Hearsay Evidence and the Right of Confrontation" at the Bench/Bar Conference on New U.S. Supreme Court Developments.

■ **Teresa K. Luther, '76**, district judge for Nebraska's Ninth Judicial District, was awarded The Distinguished Judge for Service to the Community by the Nebraska Supreme Court at the annual judicial dinner. Judge Luther has been working as vice chairperson of the Nebraska Supreme Court Implementation Committee on Pro Se Litigation and has worked since 1999 to design a course of action for the improvement of pro se services in the state. She was also instrumental in the establishment of the Central Nebraska Drug Court.

■ **William C. Schwartzkopf, '76**, president and owner of Sage Consulting Group in Denver, Colo., has written a second edition to *Practical Guide to Construction Contract Surety Claims*.

■ **Roberta Stick, '76**, Lincoln, retired after a 26-year career with Legal Aid of Nebraska.

■ **Richard J. Vierk, '76**, has joined First National Bank as the first managing director of business succession planning. Succession planning is the process of evaluating the personal and financial life cycle of a business in order to develop a future plan of action. He began his career with Deloitte & Touche in Omaha and attained the position of tax partner and managing partner of the tax operations and office. Vierk has been elected president-elect of the United Way of Lincoln and Lancaster County.

■ **Deborah R. Gilg, '77**, Omaha, formed the firm of Gilg, Kruger & Troia. The firm's practice includes family law, mediation, estate planning, probate and personal injury.

■ The Department of Justice honored **Sally R. Johnson, '77**, for her "excellent work in furtherance of the mission of the Department of Justice." Johnson, who is first assistant United States attorney in the Omaha office, received the Director's Award for Executive Achievement, recognizing her accomplishments during more

than 27 years of employment with the United States Attorney's Office in Nebraska.

■ **Robert G. Lange, '77**, Lincoln, was elected assistant secretary for Ameritas Acacia Mutual Holding Co. and vice president, general counsel and assistant secretary of Ameritas Life Insurance. His responsibilities include corporate governances, government relations, product development support, human relations, investments, contracts and agreements, general legal questions and opinions. Lange joined the company as legal counsel and has served as general counsel for insurance since June 1998.

■ **Clarence E. Mock III, '77**, received the Commitment to Judicial Branch Education Award presented by the Nebraska Supreme Court at the annual judicial dinner for his dedication to the judges' annual Current Issues program. Mock was also elected president of the Nebraska Association of Trial Attorneys. He is a partner with Johnson & Mock in Oakland, Neb.

■ **Donald H. Wallace, '77**, professor of criminal justice at Central Missouri State University in Warrensburg, Mo., has co-authored "Torture: Domestic Balancing & International Alternative and Extralegal Responses" published in the *Criminal Law Bulletin*.

■ **Terry R. Wittler, '77**, received the Commitment to Judicial Branch Education Award presented by the Nebraska Supreme Court at the annual judicial dinner for his dedication to the judges' annual Current Issues program. Wittler is a partner at Cline, Williams, Wright, Johnson & Oldfather in Lincoln.

■ **Dana Hanna, '78**, married Cheryl Rogers on June 3, 2005, at Dream Makers Chapel in Incline Village, Nev. Hanna is attorney general for the Rosebud Sioux tribe in Rosebud, S.D.

■ **James H. Hoppe, '78**, Lincoln, garnered a lot publicity as the lawyer for the eight lucky winners of the record breaking \$365 million Powerball jackpot.

■ **Sharon Kresha, '78**, has been elected treasurer of the Omaha Estate Planning Council. She is with the Baird Holm Law Firm.

■ **C. Dean McGrath, Jr., '78**, was inducted into the Grand Island Senior High School Hall of Honor. McGrath is deputy chief of staff to Vice President of the United States Dick Cheney and a member of President Bush's Management Council.



■ **Michael W. Pirtle, '78**, has joined the Omaha law firm Gross & Welch as a director. He has nearly 30 years of experience in civil litigation and insurance

defense. At Gross & Welch he has started a mediation/arbitration section.

■ **Christie Schwartzkopf Schroff, '78**, has been elected secretary of the Lincoln Community Foundation. The foundation serves as a conduit between individual donors and their preferred charitable causes. Schwartzkopf Schroff is with the Scudder Law Firm in Lincoln

■ **Dennis L. Arfmann, '79**, a partner at Hogan & Hertson in Boulder, Colo., was recognized in *Chamber USA: America's Leading Lawyers for Business* as an environmental lawyer.

■ **Kevin L. Ruser, '79**, and Vanessa Pertusa, '00, were married at the Wyndham El Conquistador Resort in Puerto Rico, September 24, 2005. Ruser is a professor of law and director of the civil clinical law program at the College of Law.

■ **John L. Strobe, '79**, has retired as professor of educational administration at the University of Louisville and moved to Lincoln. Prior to his years at Louisville, he taught at the University of South Alabama in Mobile.

1980

■ **Thomas C. Sattler, '80**, of the Lincoln law firm Wolfe, Snowden, Hurd, Luers & Ahl, is a board member of the Bio Nebraska Life Sciences Association

■ **Barbara K. Brogan, '81**, is an associate with Potter Law in Gothenburg.

■ **Robert F. Copple, '81**, Scottsdale, Ariz., is the coauthor and coeditor of *Biotechnology Law: A Primer*, a two-volume treatise published by the American Bar Association. The CPR International Commission on Patent Disputes, which Copple chaired, has published *Patent Mediation Deskbook: Better Solutions for Business*.

■ **Victor E. Covalt, '81**, a partner with Ballew, Schneider & Covalt in Lincoln, has been elected to the board of directors of the Grassland Foundation.

■ **David H. Hahn, '81**, Lincoln, is the Democratic candidate for governor of Nebraska. Hahn is CEO of New Digital Group a Lincoln business that specializes in building online publishing networks.

■ **Walter R. Metz, Jr., '81**, has joined AmeriCold Logistics in Atlanta, Ga., as vice president, general counsel and secretary. AmeriCold is the largest provider of temperature-controlled food distribution services in the country.

■ **James L. Young, '81**, has joined the Minneapolis, Minn., law firm, Westman, Champlin & Kelly. Young practices general intellectual property law with an emphasis on patent and trademark prosecution.

■ **David A. Hubbard, '82**, is director of facilitation and training at The Mediation Center in Lincoln.

■ **Bradley P. Roth, '82**, is the chair of NSBA House of Delegates. He is a partner with McHenry, Haszard, Hansen, Roth & Hupp in Lincoln.

Nebraska State Bar Foundation Fellows

The following alumni of the College of Law have been named Fellows by the Nebraska State Bar Foundation for 2005. Fellows are selected based upon their dedication to improving the administration of justice in Nebraska, their leadership in the legal profession, their civic service, their integrity and their support for the Foundation.

Kelly Baker, '75, Lincoln
 Christian R. Blunk, '84, Omaha
 Ralph A. Bradley, '75, Grand Island
 Michael T. Brogan, '81, Norfolk
 Pamela Hogenson Govier, '79, Omaha
 Gordon R. Hauptman, '74, Omaha
 Larry J. Karel, '72, Schuyler
 John R. McPhail, '73, Columbus
 Timothy L. Moll, '94, Lincoln
 Patricia Schuett-Peterson, '79, Omaha
 Kevin J. Schneider, '88, Lincoln
 Paul M. Schudel, '75, Lincoln
 Les Seiler, '66, Hastings
 Anne E. Winner, '85, Lincoln
 The Hon. Laurie J. Yardley, '83, Lincoln

Military Grads Assist War Effort As JAG Officers in Iraq, Afghanistan



Three College of Law graduates, Captain **Steve Meints, '97**, Orlando, Fla., Captain **Lloyd Phelps, '94**, Kihei, Hawaii, and Captain **Darrell Bryan, '93**, Brownsville, Texas, were stationed at Camp Anaconda, in Iraq, as part of the United States Army Judge Advocate General's Corps. Camp Anaconda, a logistics hub located approximately 50 miles from Baghdad, is home for about 24,000 soldiers. Meints, Phelps and Bryan, who were part-time citizen soldiers before being mobilized for active duty, did not know each other before their deployment to Iraq.

U.S. Air Force Lieutenant Colonel **Matthew Ruane, '95**, served a six-month tour of duty in Afghanistan as the staff judge advocate (chief counsel) for the Office of Security Assistance. The office provides U.S. and coalition assistance to the Afghan Ministry of Defense, Afghan National Army and police forces to establish security and the rule of law in Afghanistan. It also works on integrating U.S. and other coalition operations with the NATO International Security Assistance Force. He is now stationed in Colorado Springs, Colo., as chief of acquisition and fiscal law for the Air Force Space Command.



■ **Gail S. Perry, '83**, of the Baylor Evnen law firm, was named vice president of the Women Business Owners Network in Lincoln.

■ **Jose J. Soto, '84**, Lincoln, was appointed to the board of directors for the Woods Charitable Trust. Soto is vice president for affirmative action, equity and diversity at Southeast Community College in Lincoln. He is a consultant to and founding member of the National Cultural Competency

Initiative Resource Committee to the National Policy Center for Children's Mental Health Services at Georgetown University Child Development Center in Washington, D.C.

■ The Department of Justice honored **Joe W. Stecher, '84**, for his "excellent work in furtherance of the mission of the Department of Justice." Stecher, who serves in the criminal division of the Omaha office of the United States Attorney for the District of Nebraska,

received the Director's Award for Superior Performance as an assistant United States attorney. In particular, the award cited his successful prosecution of 26 individuals involved in a large-scale methamphetamine distribution conspiracy that operated in the Grand Island area.

■ **Monica Green-Kruger, '85**, Omaha, has formed the firm of Gilg, Kruger & Troia. The firm's practice includes

family law, mediation, estate planning, probate and personal injury.

■ **Randy Stevenson, '85**, of Baird Holm in Omaha, has been recognized in *Chambers USA: America's Leading Lawyers for Business* in the category of employment.

■ **Tom Huston, '86**, was elected secretary of the Lincoln YMCA board of directors. Huston is with Cline, Williams, Wright, Johnson & Oldfather.

■ **Gregory M. Shoemaker, '86**, co-authored "Coverage Under a Commercial General Liability (CGL) Policy for Defective Construction," published in the *Trial Advocacy Quarterly*. He is a partner in the Pensacola, Fla., law firm, Schofield, Wade, Roane & Shoemaker and is a lieutenant colonel in the Marine Corps Reserve.

■ **Donald G. Blankenau, '87**, has been named to *The Best Lawyers in America* list. The list represents 30 specialties in all states and is compiled through exhaustive peer-review in which thousands of top lawyers in the U.S. confidentially evaluate their peers. Blankenau was named one of the top practitioners in environmental and natural resources law.

■ **Richard C. Johnson, '87**, married Linda Metzger Ellerbee on October 1, 2005, at First Presbyterian Church in Hastings. Johnson is director of The Zone, an after school program for middle school and high school students in Hastings.

■ **Jodi L. Nelson, '87**, was appointed by Governor Dave Heineman to serve as Lancaster County district court judge. Nelson has been a deputy Lancaster county attorney since 1989 and has been chief of the office's juvenile division since 1999.

■ **David Newkirk, '87**, has authored a white paper on the Errors and Omissions Clause that was published in the *Journal of Reinsurance*. Newkirk is associate general counsel for the primary markets division of GE Insurance Solutions.

■ **Michael A. England, '88**, has opened a law office near Gibbon called Old Country Lawyer. Before relocating to the area, England practiced in Lincoln and was also a partner at Stumpff, Guggenmos, England & Peterson in Broken Bow.

■ **Bruce J. Bohrer, '89**, has been appointed to the Nebraska Real Estate Commission by Governor Dave Heineman. Bohrer is senior vice president of public policy and general counsel for the Lincoln Chamber of Commerce.

■ **Michael S. Dunlap, '89**, Lincoln, has been appointed to the Union College board of trustees. He is currently the non-executive chairman of Union Bank and Trust and chairman and CEO of Nelnet.

■ **David A. Hecker, '89**, Lincoln, married Melanie Ann Hunt at First-Plymouth Congregational Church on August 27, 2005.

1990

■ **Linda R. Crump, '90**, Lincoln, is president-elect for 2005-2006 of the Nebraska State Bar Association.

■ **Julie Shipman-Burns, '90**, was elected president-elect of the Nebraska Association of Trial Attorneys. She is with McCord & Burns in Lincoln.

■ **Marlon M. Lofgren, '91**, is a shareholder at the Koley Jessen law firm in Omaha. He practices business, real estate, intellectual property and health care law.

■ **Michelle Mapes, '91** is chief administrative officer for HDM Corporation. The Omaha company processes more than 30 million health care claims a year.

■ **Todd A. Richardson, '91**, of Blackwell Sanders in Omaha, has been recognized in *Chambers USA: America's Leading Lawyers for Business*.

■ **Linda R. Sanchez-Masi, '91**, has been elected to the board of directors of the Mediation Center in Lincoln. She is chief deputy clerk of the Lancaster County District Court.

■ **Roger J. Heideman, '92**, was appointed by Gov. Dave Heineman as a judge of the Lancaster County Juvenile Court. He previously was a shareholder in the Lincoln law firm of Morris, Titus & Heideman.

■ **Lance Kotschwar, '92**, has become senior counsel in the government relations practice with Arent Fox of Washington, D.C.

■ **Scott S. Moore, '92**, of Baird Holm in Omaha, has been recognized in *Chambers USA: America's Leading Lawyers for Business* in the category of employment.

■ **Daniel C. Muffly, '92**, was elected president of the Larimer County Bar Association. He is a shareholder in the Fort Collins, Colo., law firm Myatt, Brandes & Gast.

■ **Thomas Wayde Pittman, '92**, The Hauge, Netherlands, graduated cum laude in Public International Law specializing in International Criminal Law from Leiden University in South Holland. He has been serving as a legal officer in Trial Chamber II of the International Criminal Tribunal for the former Yugoslavia.

■ **Andrew Pollock, '92**, is president of the Lincoln Bar Association.

■ **Thomas B. Wood, '93**, has been elected secretary of the United Way of Lincoln and Lancaster County. He is with Wolfe, Snowden, Hurd, Luers & Ahl.

■ **Jon Bruning, '94**, has been named co-chair of the telecommunications committee for the National Association of Attorneys General.

■ **Shaylene M. Smith, '94**, was honored in New Orleans as the International Sertoman of the Year. As a Sertoman with the Crete Noon, Wilbur Area and Noah's Service

clubs, Smith volunteers her time for a multitude of community service events including those that support people with speech, hearing and language disorders, Sertoma's primary focus. She is a partner in the Kalkwarf & Smith Law Offices in Crete.

■ **Jane F. Langan, '95**, was invited to become a fellow of the American Bar Foundation by her peers for her leadership and service. She is a partner with Rembolt Luttke in Lincoln.

■ **Jennifer K. Robbennolt, '96**, has joined the faculty of the University of Illinois College of Law in Champaign, Ill., as a professor of law and psychology. She formerly was with the University Missouri-Columbia School of Law. She is co-author of the third edition of the casebook, *Dispute Resolution and Lawyers*, published by Thomson West. Among her recent articles are "What We Know and Don't Know about the Role of Apologies in Resolving Health Care Disputes," 21 *Georgia State University Law Review* 1009; "Evaluating Juries by Comparison to Judges: A Benchmark for Judging?" 32 *Florida State University Law Review* 469; and "Evaluating and Assisting Jury Competence in Civil Cases" in *The Handbook of Forensic Psychology*. She has also made numerous presentations on the role of apology in litigation including one at the UNL's Law and Psychology's Program of Excellence - Civil Juries and Civil Justice.

■ **Timothy M. Schulz, '96**, has become a partner with Yost, Schafersman, Lamme, Hillis, Mitchell & Schulz in Fremont.

■ **David O. Spinar, '96**, Omaha, has been promoted to senior vice president and chief compliance officer for Securities America, Inc.

■ **Fred Campbell, '97**, Washington, D.C., is serving as legal advisor for wireless issues to Federal Communications Commission chairman Fred J. Martin. Previously, he

was an attorney advisor in the FCC's Wireline Competition Bureau.

■ **Aimee J. Haley, '97**, has been selected as a fellow of the American Bar Foundation. She is a partner at Fullenkamp, Doyle & Jobeun in Omaha.

■ **Roman Windrum, '97**, is an investment officer and portfolio manager with Union Bank & Trust in Lincoln. He has earned the Chartered Financial Analyst designation.

■ **Kerri J. Atencio, '98**, is an associate in the Colorado Springs, Colo., office of Holland & Hart. Her areas of practice are labor and employment and employment benefits litigation.

■ **Eric N. Bergquist, '98**, Omaha, has become a partner with Kutak Rock. He conducts a public finance practice, with a concentration in multifamily housing finance. As counsel to Freddie Mac, which provides credit enhancement in various multifamily housing bond transactions, he takes responsibility for drafting transaction documentation as well as interest rate swaps and caps when such derivative components are used.

■ **Kurth A. Brashear, '98**, Omaha, has been named partner in the firm of BrashearLLP. Brashear will continue his practice in the areas of nonprofit and charitable organizations.

■ **Genelle Johnson, '98**, married Charles Fulton Bayer, June 25, 2005, aboard the Mar II, at sea, near Halifax Nova Scotia. She practices in the Lincoln office of Legal Aid of Nebraska.

■ **Tony Kordus, '98**, has been made a partner at Liebmann, Conway, Olejniczak & Jerry in Green Bay, Wis. His practice concentrates in commercial litigation and business law with a focus on municipal and insurance law.

■ **Andrew M. Loudon, '98**, was named partner at the Lincoln law firm of Baylor, Evnen, Grimit & Witt. He is a member of the firm's business and estate planning practice group.

Louden has been elected to the Senior Foundation board of directors.

■ **Adam S. Kirshenbaum, '99**, has become a partner with Blackwell, Sanders, Peper, Martin in Omaha. His specialization is mergers & acquisitions, commercial transactions, securities, venture capital/private equity financing and finance & lending.

■ **David Partsch, '99**, Nebraska City, recently merged his law office with that of Hoch & Funke to form the firm of Hoch, Funke & Partsch. He is also deputy Otoe county attorney.

■ **B. Josh White, '99**, Lincoln, has been named the University of Nebraska Athletic Department's director of compliance. White is responsible for ensuring that the conduct and operations of Nebraska's 23 athletic teams are in compliance with NCAA and Big 12 Conference rules and regulations.

2000

■ **Eve M. Brank, '00**, co-authored "Parental Responsibility Statutes: An Organization and Policy Implications," 7 *Journal of Law and Family Studies* 1. Brank is an assistant professor with the Department of Criminology, Law and Society at the University of Florida in Gainesville.

■ **Jeffrey D. Holloway, '00**, has been named a shareholder in the law firm Holmes, Waddle & Barcott. He practices in the firm's Anchorage, Alaska, office with an emphasis in workers' compensation insurance defense, civil litigation and educational law.

■ **Todd C. Kinney, '00**, has joined the Omaha firm of Fraser, Stryker, Meusey, Olson, Boyer & Bloch in the litigation group.

■ **John D. Klaasmeyer, '00**, is an associate with Truell, Murray & Maser in Grand Island. His practice focuses on workers' compensation, personal injury, family law and criminal defense.

- **Marne B. Koerber, '00**, has opened a law office in Fremont. She continues to maintain her office in Elkhorn.
- **Vanessa Pertusa, '00**, and Kevin L. Ruser, '79, were married at the Wyndham El Conquistador Resort in Puerto Rico, September 24, 2005. Petrusa is a federal officer with the Department of Homeland Security.
- **Gary G. Peterson, '00**, is a partner in the law firm of Guggenmos & Peterson in Broken Bow.
- **Angela Dunne Tiritilli, '00**, has become a shareholder and principal in the Omaha law firm Koenig & Tiritilli. Tiritilli practices in the areas of family law and estate planning.
- **Tiffany A. Wasserburger, '00**, Scottsbluff, has been named Young Careerist for the Local Business and Professional Women's organization, part of the Business and Professional Women USA. The program recognizes accomplishments of successful women. Wasserburger is deputy county attorney for Scotts Bluff County.
- **Abigail A. Wenninghoff, '00**, has become a shareholder in the Omaha law firm Engles, Ketcham, Olson & Keith. She practices in the areas of workers compensation, insurance defense, tort and civil litigation.
- **Michael J. Flood, '01**, has been named a partner with Jewell, Collins, Delay & Gray of Norfolk. He specializes in real estate, corporate, family and communication law. He also is a Nebraska state senator.
- **Kevin L. Griess, '01**, is an associate with Wolfe, Snowden, Hurd, Luers & Ahl in Lincoln.
- **Aaron M. Popelka, '01**, is a legislative assistant in the Washington, D.C., office of Rep. Jerry Moran (R-Kan.) He handles agricultural and energy issues.
- **Julie Karavas, '02**, is president of the Bio Nebraska Life Sciences Association. The TRANSCRIPT regrets the incorrect information that was published in its last issue.
- **Steffanie Garner Kotik, '02**, was featured in an article in the *Lincoln Journal Star* on "Big Red rooms." Hers features the "ultimate" Husker bathroom. She is with the Kleveland Law Office in Lincoln.
- **Jeffrey E. Mark, '02**, has become associated with the Milwaukee, Wis., law firm Von Briesen & Roper. His practice focuses on business and corporate law, health law, HIPAA and health information systems and transactions.
- **Joel Bacon, '02**, is an associate with Keating, O'Gara, Nedved & Peter in Lincoln practicing business law, commercial litigation and bankruptcy.
- **Tracy Stoehr, '03**, and **James A. Warren, '03**, were married June 4, 2005, at Rockbrook United Methodist Church in Omaha. Tracy Warren is with the Nebraska Attorney General's office in Lincoln, and James Warren is with the Lincoln accounting firm Labenz & Associates.
- **Jennifer Swartz, '03**, married Daniel Kurcz on August 27th, 2005, at St. Clement church in Chicago., Ill. She is an associate with McDonnell, Boehnen, Hulbert & Berghoff in Chicago.
- **Angela L. Williams, '03**, married Denes Korpas at St. Paul United Methodist Church in Lincoln. They live in North Platte.
- **Tom C. Anschutz, '04**, is an associate with the Omaha law firm Berens & Tate, practicing in labor and human resource law.
- **Christopher F. Blumenberg, '04**, married Amy Sedivy on August 6, 2005, at St. John Lutheran Church in Seward. He is associated with the Lincoln firm McHenry, Hazard, Hansen, Roth & Hupp.
- **Martin R. (Marty) Klein, '04**, serves as the Nebraska statewide critical incident stress management (CISM) coordinator. The creation of this position in 2005 was a result of a unique partnership between the Nebraska Health and Human Service System's Emergency Medical Services Program and the University of Nebraska Public Policy Center.
- **Jake E. McKee, '04**, has joined Smith Hayes Financial Services as an investment consultant in its Omaha office.
- **Stacey L. Miller, '04**, Aurora, married Jacob Parr at Messiah Lutheran Church in Aurora on July 23, 2005. She is with Svehla, Barrows, Thomas & Rauert in York.
- **David J. Proksel, '04**, has become associated with Kutak Rock in the Omaha office specializing in the representation of corporate investors, syndicators and developers in connection with the federal low-income housing tax credit and historic rehabilitation tax credit programs.
- **Timothy S. Sieh, '04**, York, is assistant county attorney for York County.
- **Matthew A. Works, '04**, has joined the Hall County Public Defender's office in Grand Island.
- **Ryan B. Beach, '05**, is an associate with Scudder Law Firm in Lincoln.
- **Timothy Bottum, '05**, has joined the Mitchell, S.D., firm Morgan, Theeler, Wheeler, Cogley & Petersen in general legal practice.
- **Nathan M. Bouray, '05**, Nelson, has become associated with Garrison & Garrison.
- **Bren H. Chambers, '05**, has become associated with Cline, Williams, Wright, Johnson & Oldfather in Lincoln. His practice is in wills, trusts, estates and business law.
- **Scott K. Cool, '05**, is an associate with Fraser, Stryker, Meusey, Olson, Boyer & Bloch in Omaha. His practice is in general litigation, estate planning and government and administrative affairs.

McConnell Sworn into Florida Bar In Special Place Close to Her Heart

"Of all the places where students have started their legal careers, I am sure that few could compare with where I started mine," said **Eryn McConnell, '05**. On December 23, 2005, McConnell was officially sworn into the Florida State Bar at Marc's Dino-Putt miniature golf course at Give Kids The World Village in Kissimmee, Fla.

McConnell explained, "My youngest brother was diagnosed with Chronic Myelogenous Leukemia. During his illness, our family joined him on a Make-a-Wish trip to Give Kids The World Village, a non-profit resort that creates magical memories for children with life-threatening illnesses and their



families. He fought a gallant battle but succumbed to the disease in 2001, days before his 14th birthday. Shortly after his death, Give Kids The World told us that Universal Studios was building a miniature golf course for their

Village, and they wanted to name it after Marc. We were thrilled and honored by their gesture."

McConnell attended the ribbon-cutting ceremony for Marc's Dino Putt on December 3, 2002, shortly before the start of fall semester exams for her first year at the College of Law. Even though "Dean Pierce's annual 1L exam speech," was ringing in her ears, McConnell "knew where I needed to be."

After her graduation from the Law College, McConnell moved to Florida because she wanted to volunteer at the Village that had made such a huge impact on her life. When she passed the Florida Bar, McConnell, who was serving as the Village's entertainment coordinator, insisted that the swearing in ceremony take place at Marc's Dino-Putt, a place close to her heart. "It is a moment I will never forget," she said.

includes civil litigation and employment law.

■ **Andrew J. Kafka, '05**, has joined Union Bank and Trust in Lincoln in the personal trust & wealth management division. His specialty is estate planning and settlement.

■ **Dustin J. Kessler, '05**, is an associate with Fitzgerald, Schorr, Barmettler & Brennan in Omaha in the areas of immigration, real estate and corporate business transactions.

■ **Sarah Ann Lewis, '05**, Omaha, is policy coordinator for Voices for Children in Nebraska.

■ **Shon T. Lieske, '05**, has joined Lieske Law Firm in Minden as an associate. He practices in the area of criminal defense, divorce, probate, real estate, business organizations, adoptions, personal injury and civil litigation.

■ **Ross A. Luzum, '05**, has joined Powell & Associates in Aurora where he handles wills, trusts and estate planning matters. He also serves as part-time deputy county attorney.

■ **Bradley B. Mallberg, '05**, is an associate with Erickson & Sederstrom in its Lincoln office. He primarily practices in the areas of litigation, health care law and administrative law.

■ **Stephanie A. Mattoon, '05**, is an associate with Baird Holm in Omaha as a member of the firm's business, tax and estate planning practice.

■ **Molly A. Mazour, '05**, has become associated with Kutak Rock in Omaha. Mazour represents investors, developers and resyndicators in low-income housing and historic rehabilitation tax credit transactions. Her representation includes for-profit, not-for-profit, municipal and Native American housing agencies.

■ **Austin L. McKillip, '05**, is an associate with Cline, Williams, Wright, Johnson & Oldfather in Lincoln. His practice is in litigation and environmental law.

■ **Renee A. Eveland, '05**, is an associate with Wolfe, Snowden, Hurd, Luers & Ahl in Lincoln.

■ **Katie A. Fougeron, '05**, has become associated with Kutak Rock in Omaha concentrating in structured finance in the corporate department.

■ **Stacie A. Goding, '05**, is an associate with the Grand Island firm Lauritsen,

Brownell, Brostrom, Stehlik, Myers & Daugherty.

■ **Mitchel Greenwall, '05**, has joined the Kearney firm Yeagley, Swanson & Murray.

■ **Laurie E. Hellbusch, '05**, is an associate with Abrahams Kaslow & Cassman in Omaha. Her practice

■ **Kristin Ann Mohrman, '05**, married Austin Hunter Fearnow on August 27, 2005, at Rockbrook Methodist Church in Omaha. Kristin Fearnow is with the Douglas County Public Defenders office. Austin Fearnow was a visiting student at the College of Law during his third year of law school.

■ **Susanne Sarah Novak, '05**, married John Paul Haas II, June 18, 2005, at St. John's Church. Novak is a deputy Douglas county attorney.

■ **Adam D. Pavelka, '05**, has joined Seiler & Parker, which has offices in Hastings and Clay Center. His areas of concentration are estate and business planning, corporations, estate planning, probate, trusts, wills, real estate and agricultural law.

■ **Alisa Rosales, '05**, a member of the inaugural class of the Bill Clinton School of Public Service at University of Arkansas-Little Rock, has accepted a position at Notre Dame Law School in South Bend, Ind., as the assistant director of career services for public interest law.

■ **Cathy R. Saathoff, '05**, is an associate at Nelson Law in Omaha.

■ **John L. Selzer, '05**, is an associate with Harding, Shultz & Downs in Lincoln. He specializes in business law.

■ **Amy R. Skalka, '05**, has joined Seiler & Parker Law Office, which has offices in Hastings and Clay Center. Her areas of concentration are family

law, personal injury law, civil litigation insurance defense, criminal defense, collections and juvenile law.

■ **Daniel R. Slaughter, '05**, is an associate with Wolfe, Snowden, Hurd, Luers & Ahl in Lincoln.

■ **James B. Ward, '05**, has been named general counsel for Credit Management Services, Inc., in Grand Island.

■ **Amy K. Wiebelhaus, '05**, has joined the law firm of Olds, Pieper & Connolly in Wayne, where her primary area of practice is family law. She also serves as deputy county attorney for Wayne and Pierce counties.

In Memoriam

The College of Law extends its deepest condolences to the families and friends of the following alumni:

1940

■ **Jerome Prokop, '40**, died on July 26, 2005, at age 91, in Arlington, Va. He was a major in the United States Air Force and was an examiner for the Army Military Records Correction Board.

■ **Leslie Boslaugh, '41**, Lincoln, died February 16, 2006, at the age of 88. Judge Boslaugh served for 33 years on the Nebraska Supreme Court before retiring in 1994. Boslaugh served as an Army officer in the European theater during World War II. He continued to serve in the Judge Advocate General Corps in the Army Reserve. He first practiced law with Lester Stiner in Hastings and served as the Hastings city attorney. Boslaugh succeeded his father, Paul Boslaugh, 1903, on the court. He was the last state judge to be seated by popular election.

■ **Max Nelson Burgin, '48**, formerly of Lincoln, died September 29, 2005, at age 84 in Shenandoah, Texas. Burgin served in the United States Coast Guard during World War II. He retired as a research analyst for the Nebraska Department of Labor. He founded the Max Burgin Foundation for students in North Platte who wish to attend the University of Nebraska-Lincoln.

■ **Hugh Stuart, '48**, died in Omaha on April 3, 2006, at the age of 84. Judge Stuart was appointed district court judge by Governor Frank Morrison and was the first judge to be appointed under Nebraska's merit system. In *Nebraska Press Association v. Stuart*, the U.S. Supreme Court overturned Stuart's order prohibiting the reporting of certain court testimony prior to the impaneling of a jury in the 1976 North Platte murder trial of Erwin Charles Simants. After retiring from the district court bench, he served as an

administrative law judge in Omaha for the Social Security Administration.

1950

■ Former Nebraska Supreme Court Justice **Dale E. Fahrnbruch, '50**, died June 1, 2005, at the age of 80. Fahrnbruch served in the United States Army in World War II. He also served as city editor of the *Lincoln Journal Star*, chief deputy Lancaster county attorney, a partner in Beynonhecht & Fahrnbruch and a judge for the Lancaster County District Court.

■ **Stanley K. Hathaway, '50**, died October 4, 2005, at the age of 81 at his home in Cheyenne, Wyo. Hathaway served in the Army Air Force in World War II flying bomber missions in Europe. Following his graduation from the Law College, Hathaway practiced law in Torrington, Wyo. He served as Goshen county attorney from 1954 to 1964. He was elected governor of Wyoming in 1966 at age 42 and was re-elected in 1970. As governor, he helped enact Wyoming's first severance tax on minerals mined and pumped from the state and created a permanent trust fund in which severance tax money was invested, earning enough to run a major portion of the state's government operations today. He also helped create the Wyoming State Department of Environmental Quality. President Gerald Ford appointed Hathaway as secretary of the interior in June 1975, but he resigned the following month because of ill health. Subsequently, he formed the Cheyenne firm of Hathaway, Speight & Kunz. In recognition of Hathaway's contributions to higher education, the 2005 Wyoming Legislature authorized \$400 million for the Hathaway Student Scholarship Endowment Account. Qualified Wyoming high school graduates will receive a scholarship equal to tuition and fees at the University of Wyoming or any state community college.



■ **Roland A. Luedtke, '51** died at the age of 81 on July 22, 2005, in Lincoln. Luedtke served in World War II and earned a Purple Heart. He was appointed deputy secretary of state in 1953 and served three terms in the state

legislature beginning in 1966. He served as lieutenant governor under Governor Charles Thone from 1979 to 1983, and as mayor of Lincoln from 1983 to 1987.

■ **Douglas Y. Freeman, '52**, died on January 26, 2006, in Hardin, Mont., at the age of 78. He served as Big Horn county attorney from 1966 to 1975. Subsequently he was in private practice in Hardin. He was instrumental in an important case regarding the Big Horn River controversy between the Crowe Tribe and the state of Montana. He was adopted by the Crow Tribe and was called Chief Good Heart.

■ **Joseph D. "Dal" Wood, Jr., '54**, died November 6, 2005, at the age of 75 in McCook. At the time of his death, he was a partner in the law firm of Colfer, Wood, Lyons and Wood in McCook. He was Red Willow attorney from 1958 until 1972. He served in the United States Air Force in the Korean War and the Nebraska National Guard.

■ **Richard L. Huber, '56**, died on June 5, 2005, at age 76 in his Grand Island home. He served as a police court judge and justice of the peace before entering private practice. He retired in 2000. He was also part owner of Westside Bowling Lanes/Huddle Lounge and was past president of the University of Nebraska Touchdown Club.

■ **William R. Ross, '58**, died in June 2005 in Lakewood, Colo.

1970

■ **Brice F. Rueter, '71**, died on December 20, 2005, at the age of 61. He practiced law and farmed in Wauneta. He loved woodworking and designed and built grandfather clocks. He also crafted the woodwork in his former law office in Wauneta.

■ **Philip M. Bowen, '73**, Omaha, died July 23, 2005, of a heart attack at the age of 57. He was with World Insurance Co. in Omaha for 24 years as an associate general counsel and later vice president and general counsel. He began his career in private practice with Welsh, Sibbernson & Bowen, specializing in civil litigation. At the time of his death, he worked for Catholic Mutual Group as claims and corporate counsel.

1980

■ **Beth L. Tallon, '87**, Lincoln, died February 6, 2006, at the age of 72. She worked for the Dawson County Court as an associate judge and head justice of the peace for Western Nebraska. She also worked as legal counsel for the Nebraska Legislature and for Health and Human Services.

■ **Michael A. Klusaw, '88**, died December 30, 2005, in Omaha at age 45. He practiced in the area of family law in Omaha.

1990

■ **"T. K." Olson, '90**, Omaha, formerly of Lincoln, died July 18, 2005, at the age of 42. He was an active musician playing drums with Finnsters, Finest Hour, Pud Brothers, Soul Dawg and Version Three.

■ **Adam Studenberg, '97**, Omaha, died April 25, 2005, at the age of 32. He was a federal inspector at Eppley Airfield.

Stay In Touch

We want to make sure we have the most current information on our alumni. Please take a few moments to complete this form and mail it back to us. If you'd like, you can now update your information on the internet at the following link:

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Current news about yourself, photos and clippings are always welcome. Materials will be used in future *AlumNotes* in THE NEBRASKA TRANSCRIPT.

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You are invited...

The Modern Legacy of William Jennings Bryan – Friday, November 3, 2006



William Jennings Bryan (1860-1925), known as "The Great Commoner," is one of the most controversial lawyers to hail from Nebraska and is arguably the most crucial American never to win a presidential election. While Bryan may be most well known for his defense of creationism in the Scopes Monkey Trial, fundamental aspects of Bryan's life have been overlooked. In a controversial new biography, *A Godly Hero: The Life of William Jennings Bryan*, Professor Michael Kazin re-evaluates Bryan's legacy and charges us to consider the profound implications he had upon the current political, economic and legal reality in the United States.

On Friday, November 3, 2006, the University of Nebraska College of Law will sponsor a lunch-time symposium from 12:00-1:30 to reconsider the implications of Bryan's legacy for Nebraska, the United States and the world. The symposium brings together a series of speakers who will provide insights as to how Bryan transformed the Democratic Party and laid the foundation for the New Deal. Assistant Professor Susan D. Franck will be moderating a panel of speakers that includes Professor Michael Kazin, from the Georgetown University Department of History; Professor William G. Thomas III, who is the John and Catherine Angle chair in the humanities and professor of history at the University of Nebraska-Lincoln; and Professor Jim Chen, the James L. Krusemark professor of law at the University of Minnesota.

We welcome audience participation in this round-table discussion, which addresses areas of concern in today's national and international landscape. This session will take place in the Sherman Welpton Courtroom at the College of Law.

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